

Bill Evans

Mazzola v. Togliatti, et al.

May 12, 2020



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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

LEONARD MAZZOLA,)
)
Plaintiff,)
vs.) Case No. 19-CV-02519
)
ANTHONY TOGLIATTI, ET AL.,)
)
Defendants.)

- - - - -
THE DEPOSITION OF BILL EVANS
TUESDAY, MAY 12, 2020
- - - - -

The deposition of BILL EVANS, called by
the Plaintiff for examination pursuant to the
Federal Rules of Civil Procedure, taken before me,
the undersigned, Aimee N. Szinte, Notary
Public in and for the State of Ohio, via
Zoom Videoconference, at 12:30 p.m., the day and
date above set forth.

CADY REPORTING SERVICES, INC.

APPEARANCES:

On behalf of the Plaintiff:

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On behalf of the Defendant City of Independence:

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and

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On behalf of the Witness:

Bradley Snyder, Esq.
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ALSO PRESENT:

Leonard Mazzola, Plaintiff
Anthony Togliatti, Defendant

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BILL EVANS, of lawful age, called by
the Plaintiff for examination pursuant to the
Applicable Rules of Civil Procedure, having been
first duly sworn, as hereinafter certified, was
examined and testified as follows:

EXAMINATION OF BILL EVANS

BY-MS.SAVOIE:

Q Mr. Evans, my name is Jessica Savoie. I am an
attorney at the Chandra Law Firm and we
represent Leonard Mazzola in a civil lawsuit he
has filed.

You're an attorney, correct, Mr. Evans?

A Yes.

Q I had trouble hearing that. Is there any way
we can adjust the sound quickly?

A Yes. Is that better?

Q It was actually easier to hear you before we
went on the record, so I would ask that we go
off the record and we do something to adjust
the sound on your end, please.

(Recess taken.)

Q So Mr. Evans, you're an attorney, correct?

A Yes.

Q You're well acquainted with depositions, right?

A Yes.

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1 Q You're familiar with the rules of depositions,
2 right?

3 A Yes.

4 Q Because we are conducting this deposition via
5 Zoom, I would ask that we take extra care to
6 avoid talking over each other.

7 Did you produce documents in response to
8 a subpoena duces tecum dated December 4, 2019
9 in the Lenny Mazzola civil lawsuit?

10 A Yes.

11 Q Have you had a chance to look at Plaintiff's
12 Exhibit 1, which is a copy of that subpoena?

13 A Yes.

14 Q If there are no objections, I'll introduce that
15 as Plaintiff's Exhibit 1 to your deposition so
16 we can establish why you produced those
17 documents.

18 - - - - -

19 (Plaintiff's Exhibit 1 was marked.)

20 - - - - -

21 Q Now, are the documents you produced the
22 documents that we have been provided labeled
23 Plaintiff's Exhibit 2, Bates stamped
24 Evans/PTA 001 through 217?

25 A This is what came yesterday or the day before,
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1 correct?

2 Q Yes. I sent a copy of what we planned to use
3 to your attorney.

4 A I'm just looking through the one marked
5 Exhibit 2. I saw the one marked Exhibit 1.

6 And what was Exhibit 2 again? I'm sorry.

7 Q These are the documents you produced in
8 response to the subpoena, correct?

9 A Oh, yes. The documents that are Bates stamped?

10 Q Yes.

11 A Yes.

12 Q So if there are no objections, we'll introduce
13 that as Plaintiff's Exhibit 2 to your
14 deposition.

15 - - - - -

16 (Plaintiff's Exhibit 2 was marked.)

17 - - - - -

18 Q What else did you produce in response to our
19 subpoena that is Plaintiff's Exhibit 1?

20 A I don't know of any documents that were
21 produced other than what was specifically
22 requested by your subpoena that has been
23 Bates stamped by Mr. Snyder's office.

24 Q Did you produce any media files in response to
25 our subpoena?

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1 A Yes.

2 Q So you produced some audio and video files,
3 correct?

4 A That's correct.

5 Q We're not using that as part of the exhibit. I
6 just wanted to make clear that what we're using
7 is just the actual documents you produced,
8 correct?

9 A I understand.

10 Q What did you do to prepare for your deposition
11 today?

12 A I reviewed the Bates stamped documents that you
13 have in your possession, I have in my
14 possession, and that was all.

15 Q Did you review anything else you produced in
16 response to the subpoena?

17 A No. Just the Bates stamped documents and what
18 you sent yesterday or the day before that we
19 just went over a moment ago.

20 Q And since we did that off the record, I'll ask
21 you to explain what that is.

22 A That documents was an I-Team -- it was in
23 written form that I reviewed. It was an I-Team
24 type of narrative that had to do with this case
25 and that had contained some information

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1 relevant to a lie detector, I think it was
2 characterized as a lie detector, and a question
3 or questions posed by Mr. Gallek to the
4 Chief of Police of Independence, Ohio.

5 Q Was that an I-Team article dated May 3 of 2019?

6 A I don't know the date on it. I didn't pay
7 attention to that. But it was an I-Team
8 article.

9 Q And do you have it in front of you now?

10 A I do not. It's on Mr. Snyder's computer.

11 Would you like me to confirm the date?

12 Q Please, do.

13 A The date on that is May 3.

14 Q 2019, correct?

15 A That's correct.

16 Q And we had a stamp on it that said Plaintiff's
17 Exhibit 3, correct?

18 A Yes.

19 Q If there are no objections, we'll use that as
20 Exhibit 3 to your deposition. We'll talk about
21 that a little later.

22 - - - - -

23 (Plaintiff's Exhibit 3 was marked.)

24 - - - - -

25 Q Did you communicate with anyone employed by the
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City of Independence to prepare for your deposition?

A No.

Q Did you communicate with anyone to prepare for your deposition?

A My attorney, Brad Snyder.

Q Other than your attorney, did you communicate with anyone else before your deposition?

A No.

Q Mr. Evans, you own and operate a business called PolyTech Associates, Incorporated, correct?

A That's correct.

Q And you're the President, correct?

A Yes.

Q What services does PolyTech Associates provide?

A Forensic lie detection polygraph services and polygraph testing. Lie detection services involving ocular lie detection testing. Evaluation for police applicants and fire applicants before hire. Internal affairs types of investigations for public sector and private sector agencies or entities. We also do promotional evaluations in the public and private sector, and we write pandemic

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1 catastrophe emergency plans and continuation of
2 -- government continuation of operation plans.

3 Q Do you still practice law?

4 A Yes.

5 Q What are your practice areas?

6 A It's a general area. It's a small practice
7 without any areas of specialized concern.

8 Q When did you first meet Police Chief
9 Michael Kilbane?

10 A It was in respect to this investigation
11 sometime shortly before the investigation. I
12 don't have the exact date.

13 Q Did you meet Chief Kilbane when he was working
14 for North Olmsted?

15 A No.

16 Q Were you or your company ever retained to do
17 work for North Olmsted Police Department?

18 A No, Not for the police department, but for the
19 fire department.

20 Q What was the work you did for North Olmsted?

21 A This was evaluation for a Fire Chief.

22 Q When you were retained or when were you
23 retained by the City of Independence for the
24 investigation that involved Lenny Mazzola?

25 A I don't have the exact date at the tip of my

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1 tongue, but it was shortly before this
2 investigation began.

3 Q Do you know when you first received the
4 assignment from the City of Independence?

5 A I don't know the exact date.

6 Q Do you write down your activity on files in
7 your activity logs?

8 A For my record keeping, which is internal, I
9 write down activity that I do in my activity
10 log in general or notes as they're accumulated.

11 Q So would you mind looking at Plaintiff's
12 Exhibit 2, which are your records, and the page
13 Bates stamped Evans PTA 103?

14 A I'm looking at that. Oh, 103 or 003?

15 Q 103.

16 A Oh, okay. I'm sorry.

17 Q Thank you for clarifying.

18 MS. SAVOIE: Steven, can I ask
19 you to put your computer -- I'm getting some
20 background noise from someone. It looks like
21 you may not be on mute. Are you on mute?

22 MR. STRANG: No, I'm not on mute.

23 MS. SAVOIE: Would you mind
24 putting it on mute for now until you need to
25 make an objection?

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1 MR. STRANG: I expect it's not
2 me. I'm on a speakerphone and there's nothing
3 else in here, but I'll give it a shot.

4 MS. SAVOIE: Thank you. That
5 cleared it up. That's good.

6 A I'm looking at 103 now.

7 Q All right. So looking at 103, if the earliest
8 date of any activity in your activity log is
9 January 31, 2019, is that when you received
10 the assignment for this investigation from
11 Chief Kilbane or is that a separate meeting
12 where he first talked to you about it?

13 A That's when he first talked to me about it.

14 Q When did you receive the assignment from
15 Chief Kilbane?

16 A I really don't know when that date was.

17 Q When did you actually begin your investigation?

18 A Well, I would look at this activity log and I
19 would say that it would be -- I would say it
20 would be on March 13 when I went to do some
21 interviews at the City of Independence.

22 Q Can you tell me if there is any difference
23 between the activity log on -- let me back up
24 for a second.

25 So you have activity logs on pages

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Evans/PTA 102 and 103?

A 102 did you say?

Q Yeah. You have activity logs on 102 and 103.

Are both of these your activity logs?

A Yes.

Q So do you keep these in chronological order?

A Well, I may go back if I forgot to make an entry and enter it at a different time if I don't have the activity log available, so whether it's contemporaneous or chronological, I'm not sure.

Q I'm just trying to understand the chronology of your investigation. So does this accurately represent the chronology?

And it looks like Evans/PTA 103 is actually early in time and then Evans 102 picks up on March 22, 2019, is that correct?

A Oh. I see what you're asking. Because one is before the other, it's two pages, so.

Q Right.

A I understand.

Q Yeah. So does this set forth the chronology of your investigation?

A Yes.

Q And your investigation actually began whenever

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1 you did interviews on March 13 of 2019,
2 correct?

3 A I guess if you would characterize the bright
4 line of beginning, that's the first that I
5 would have made reference to any investigatory
6 activity. March 13 was when I left to go to
7 Independence to do the interviews.

8 Q And Chief Kilbane first contacted you on
9 January 31, 2019?

10 A Yes.

11 Q And you had a meeting in person?

12 A Yes.

13 Q Whenever you met with Chief Kilbane on
14 January 31 of 2019, what did he tell you about
15 what he was looking for?

16 A There may be notes or a series of notes in the
17 Exhibit 2 stack of documents that would
18 accurately reflect my understanding of that
19 meeting. But just in memory, it was an
20 overview of information about the matter in
21 which he was trying to determine information
22 about dissemination of material from outside or
23 from two sources not within the police
24 department.

25 Q What was the scope of your assignment whenever

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1 you received the formal assignment to begin
2 your investigation?

3 A To identify whether there was information
4 disseminated outside of the police department's
5 protocol which would be to outside sources not
6 authorized by the police department or the
7 public communications officer for the police
8 department.

9 Q Did Chief Kilbane ask you to perform a criminal
10 investigation as part of this assignment?

11 A He was uncertain at that point what type of an
12 investigation it may or may not be and had
13 indicated that it could be criminal or within
14 the department as an internal type of matter,
15 and he had identified some breaches of the
16 Ohio Revised Code, as well as identify areas
17 within the police department that were breaches
18 of policy.

19 Q Are you able to possibly set your microphone
20 settings?

21 A Maybe I got closer. Is that better?

22 Q It's a little better.

23 Mr. Evans, would you please continue your
24 answer from before about whether you were
25 performing a criminal investigation as part of

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your assignment from Chief Kilbane?

A I really don't have anything to add to that at this point.

Q Did you actually perform a criminal investigation or was this an administrative investigation?

A I didn't know until I got to the City on the 13th to do the interviews as to how we were going to proceed, at that point anyway, and so Sara Liva was the representative for the officers that I was going to interview, the attorney representing the union, and she didn't know either at that point. And there was contact with Bob Phillips who she worked for by Sara Liva to make a decision at that point as to how to proceed.

Q What was your ultimate decision about how to proceed with your investigation?

A It was not my decision. It was the decision of the collective client, which would be the HR Director, the Chief of Police and Bob Phillips that we would proceed under Garrity to do the interviews, because I was not a law enforcement officer and if the interviews were going to be done in a different way under a non-Garrity

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1 proceeding, I wasn't able to supply --

2 MR. CHANDRA: At this point we
3 are getting some distortion now that the
4 microphone was raised to 90. I see Aimee
5 curling her brow the same time I am, so I think
6 we need to go back to that 90 percent volume
7 and let's see if that keeps the little
8 distortion from coming in when you're
9 emphasizing certain words. Tell us when you're
10 ready and have been able to do that.

11 THE WITNESS: I've taken it down
12 to about 65 percent. Maybe that's better even
13 than it was at 80 percent.

14 Can you hear me better now?

15 MS. SAVOIE: Yes, Mr. Evans.
16 Thank you. That sounds better to me.

17 Q Are you able to continue?

18 A Yes.

19 Q So as you were saying before, people suspected
20 of a crime have the right to be issued Miranda
21 Warnings before being questioned, correct?

22 A Depending on the crime, yes.

23 Q Can you clarify that answer, please?

24 A Well, as I understand it -- I have been in law
25 enforcement for a long time, but as I

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1 understand it, it's going to be a situation
2 involving --

3 MR. CHANDRA: We lost you again.
4 You dropped off again completely. We've got
5 real issues with your microphone. I wonder if
6 it might be possible to maybe just switch
7 computers between Brad and Bill and see if that
8 might help. I'm spit balling here, but your
9 voice suddenly dropped off to unintelligible
10 again.

11 MS. SAVOIE: Let's have the
12 question read back.

13 (Record read.)

14 A If it's a custodial interview and the person
15 isn't free to leave, then Miranda needs to be
16 given.

17 Q Okay. It sounded like you cut off there. Was
18 your last word given?

19 A Yes.

20 Q Did you use Garrity during this investigation?

21 A Yes.

22 Q Did the City officials that you mentioned
23 before decide this was an administrative
24 investigation rather than a criminal
25 investigation?

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1 A Yes.

2 Q Did Chief Kilbane or anyone ask you to
3 investigate who violated any specific employee
4 policies or department policies?

5 A Yes. That was the general theme of the
6 investigation was to try to identify who
7 violated the policies.

8 Q Did Chief Kilbane or anyone at the City ask you
9 to analyze which laws may be implicated by the
10 facts that you discovered during your
11 investigation?

12 A No.

13 Q Did anyone at the City ask you to analyze what
14 ordinances might have been implicated by the
15 facts you learned?

16 A No.

17 Q Did anyone at the City ask you to analyze
18 whether any of the facts you learned violated
19 any internal department policies?

20 A No.

21 Q Other than what we've discussed so far, can you
22 give me more information about the scope of
23 your assignment from the City of Independence
24 that we've been discussing?

25 A No. I think I pretty much summed it up.

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1 Q Can you explain the timing -- I just heard some
2 weird feedback. Was someone trying to object
3 or say something?

4 With respect to the timing of your
5 assignment and your investigation, what
6 prompted your initial assignment?

7 A I'm not clear on the question.

8 Q What happened to prompt the City of
9 Independence to retain you to conduct an
10 investigation?

11 A It was the -- as I testified earlier, the
12 dissemination of information in breach of
13 policy, as I understood it.

14 Q And how did Chief Kilbane or anyone at the City
15 learn about that?

16 A I don't know.

17 Q Did Chief Kilbane talk to you about a news
18 article by Ed Gallek dated January 14 of 2019?

19 A What was the date again, please?

20 Q January 14, 2019. In your documents that
21 we've labeled Plaintiff's Exhibit 2, at page
22 Evans/PTA 095 there's a copy of that article
23 with your documents.

24 A 095 you said?

25 Q Correct.

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1 A Okay. I'm looking at that document.

2 Q Did Chief Kilbane tell you whether that
3 document prompted him to contact you?

4 A Not specifically, no.

5 Q Was it your understanding that that news
6 coverage prompted him to contact you?

7 A That was in part of something he referred to,
8 but I really don't know what prompted him to
9 contact me other than what I testified to.

10 Q Did he give you the document that's labeled as
11 page 95 here?

12 A Yes.

13 Q Did Chief Kilbane also give you documents that
14 he thought were the source of the two circled
15 and underlined portions of that article?

16 A He gave me that document that you're referring
17 to, 095. Does that answer your question?

18 Q Not quite, but I'll break it down a little
19 more.

20 So do you see how there are circled and
21 underlined portions on page 095 in that
22 document?

23 A Yes.

24 Q So one of them is a police memo that shows,
25 "Productivity standard. Patrol officers shall

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1 meet or exceed 10 traffic citations per month."

2 Correct?

3 A Correct.

4 Q And a second portion that is circled and
5 underlined says -- another memo refers to,
6 "At least two to three traffic enforcement
7 actions per shift." Correct?

8 A That's correct.

9 Q And the article also says, "These can include
10 warnings or crash investigations, not just
11 tickets." Correct?

12 A Correct.

13 Q And then turning to the next page of
14 Plaintiff's Exhibit 2 to Evans PTA 096 --

15 A Yes, I see that.

16 Q Is there highlighted language on that page?

17 A Yes.

18 Q Did you highlight that or did someone else
19 highlight it?

20 A I don't know. I'm not sure who highlighted
21 that.

22 Q Was that highlighted to correspond to similar
23 or the same language contained on page 095 in
24 the news article?

25 A Yes.

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1 Q Can you identify that document on page 096?

2 A That's the document from Leonard Mazzola to the
3 patrol -- excuse me -- to police and
4 dispatchers dated September 25, 2018 and the
5 subject is, "Performance Standard."

6 Q Okay. And you also received a memorandum from
7 Leonard Mazzola to JT Kurtz, correct?

8 A You know, I'm sorry and I apologize. I don't
9 know the name specifically and if you could
10 reference the document, that might help me out.
11 I don't know the names as well as I would the
12 documents, so if we can refer to a specific
13 PTA number.

14 Q Okay. Yes. Let me locate that really quickly.

15 MS. SAVOIE: Let's take a quick
16 break for a second.

17 (Recess taken.)

18 Q Could you please turn to Evans/PTA 082?

19 A Yes.

20 Q And so Chief Kilbane gave you a copy of this
21 memo as well, correct?

22 A I'm not there quite yet. So 082 you said,
23 correct?

24 Q You can go to 082 or 081. It looks like
25 they're the same document.

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1 Can you identify that document, please?

2 A This document is to Sergeant JT Kurtz from
3 Lieutenant Mazzola. There's a copy to
4 Chief Kilbane. The memo is dated August 8,
5 2018 and the subject matter is, "Productivity."

6 Q Do you see the highlighted and underlined
7 language?

8 A Yes, I do.

9 Q And what language is highlighted and
10 underlined?

11 A "At least two to three traffic enforcement
12 actions per shift."

13 Q Does that correspond to the quote from the news
14 article dated January 14, 2019 that we
15 discussed a moment ago?

16 A And that was Bates stamp number?

17 Q 95.

18 A 95, okay.

19 Q Yes.

20 A Let's see. "At least two to three law
21 enforcement actions per shift."

22 Q So the question is was that document at
23 Evans/PTA 081 given to you because it needed to
24 correspond to the information in the news
25 article?

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1 A I'm looking to see where "at least two to three
2 traffic enforcement actions per shift" appears
3 on Bates stamp 095 and I haven't found that
4 yet.

5 Q There's some highlighted and underlined
6 language. So do you see about 40 percent of
7 the way down the page where it says, "Another
8 memo refers to 'at least two to three traffic
9 enforcement actions per shift'?"

10 A Yes. I see that.

11 Q Okay. So --

12 A I see it, yes. I see the correlation, yes.

13 Q Right. So I'm just trying to understand who
14 gave you the documents in your file and why,
15 right?

16 So Chief Kilbane gave you this memo
17 that's on page Evans/PTA 081, correct?

18 A Yes.

19 Q And he gave it to you because he thought the
20 information was -- he thought that the
21 information in this memo was the source of the
22 information in the news article, correct?

23 MR. STRANG: Objection.

24 Q Do you know why he gave you this memo?

25 A No. I can tell you that various memos were

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given to me without highlighting. I highlighted -- I can identify this now better because I highlighted the blue as being similar and I believe I highlighted the blue on Bates stamp 81 and the yellow on Bates stamp 81.

Q So you made these highlights?

A And I believe I highlighted 95. You asked me that earlier and I wasn't sure, but now that I see the color on these two, I believe I highlighted both of these pages.

Q So you highlighted these in the course of your investigation?

A Yes, I believe I did.

Q Chief Kilbane also gave you an e-mail from Ed Gallek to Chief Kilbane dated January 14 of 2019 which is found at Evans/PTA 090, correct?

A I want to make sure I keep these in order because I am pulling them out, so let me put this back.

090 is the one you're going to now?

Q Correct.

A All right. Let me pull that out. Okay. I have 090 in my hand.

Q Chief Kilbane gave you this e-mail, correct?

A Yes.

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Bill Evans

- 1 Q And this was an e-mail from Ed Gallek, correct?
- 2 A Yes.
- 3 Q He made a public records request for
- 4 pre-disciplinary and disciplinary paperwork for
- 5 Leonard Mazzola, correct?
- 6 A He being Ed Gallek?
- 7 Q Correct.
- 8 A That would be an assumption on my part.
- 9 Q So is it correct that the e-mail reads, "I'm
- 10 requesting the pre-disciplinary and
- 11 disciplinary paperwork for Lieutenant Mazzola."
- 12 A Yes. In other words, I'm assuming he made that
- 13 request.
- 14 Q Okay. I mean is that what the e-mail says?
- 15 A Yes. That's why my assumption is that he made
- 16 the request.
- 17 Q Okay. As opposed to someone else using
- 18 Ed Gallek's e-mail?
- 19 A As opposed to someone else at the news station
- 20 on his behalf.
- 21 Q Okay. And in this e-mail Ed Gallek also
- 22 requested the pre-disciplinary, disciplinary
- 23 paperwork for officer Brian Dalton, correct?
- 24 A Yes.
- 25 Q And he requested other discipline for other

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1 supervisors or patrol officers issued since the
2 previous August regarding traffic stops or
3 tickets written, correct?

4 A Well, the third paragraph down says, "Officer
5 Dalton filed a recently concerning number of
6 traffic stops/tickets written and I'm also
7 requesting any other discipline for any other
8 supervisors or patrol officers issued since
9 late August regarding traffic stops/tickets
10 written."

11 Q Okay. And what's the final thing he requested?

12 A "I'm also requesting grievances filed for any
13 of these disciplinary issues or policies
14 concerning the number of traffic stops/tickets
15 written/performance expectations."

16 Q At the page marked Evans/PTA 099, if you
17 wouldn't mind turning to that.

18 A I'm at that now, yes.

19 Q Is that an e-mail from Chief Kilbane to you
20 dated March 8, 2019?

21 A Yes.

22 Q Is it correct that Chief Kilbane indicated that
23 the only people who possessed the written
24 reprimand to Officer Dalton were Mr. Mazzola,
25 Mr. Dalton and the Chief?

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1 A I'm referring to, "Attached is the reprimand to
2 Officer Dalton that was requested by the
3 reporter. This reprimand was written by
4 Lieutenant Mazzola, printed out and given
5 directly to Patrolman Dalton. It was not
6 disseminated electronically and the only people
7 who possessed it were Lieutenant Mazzola,
8 Patrolman Dalton and myself after it was
9 presented to Dalton for his signature. I also
10 included the ORC section below that addresses
11 accessing a computer system beyond the scope of
12 authority. It is an F-5. Please let me know
13 if you need anything else."

14 Q Okay. That is sufficient. Thank you.

15 That's a reference to a potential felony
16 when he says, "F-5." Correct?

17 A Yes.

18 Q So at this point during the course of your work
19 with the City, Mr. Mazzola was being
20 investigated by the City for a felony?

21 A I don't know.

22 Q Can you explain?

23 A I don't know what he was being investigated
24 for. I think this was provided to me by the
25 Chief for his own reasons as it relates to, as

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1 I said, the direction of this case. Whether it
2 was internal or not was to be determined as the
3 facts revealed themselves, but I don't know
4 what was in the Chief's mind in regard to how
5 it was being investigated or not.

6 Q So what is your understanding based on your
7 communications with Chief Kilbane about why he
8 sent you this statute in Section 2913.04?

9 A Well, you asked for my understanding, and that
10 would simply be to explain the gravity of the
11 situation as he perceived it in that someone
12 had obtained information and sent it outside of
13 the proper protocol for releasing that
14 information to unauthorized parties without
15 going through the communications officer for
16 the City.

17 Q Did Chief Kilbane ask you to then to analyze
18 the facts and determine whether there was a
19 possible violation of this criminal statute?

20 A Not necessarily of the criminal statute. As I
21 indicated earlier, to determine whether or not
22 there was a breach of whether it be policy or
23 procedure.

24 Q Right. But I'm asking about what you
25 specifically did with this statute, Section

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2913.04?

A I didn't do anything with the statute. I think it was just information he was supplying to me to identify what he perceived to be the severity of the situation in the City of Independence.

Q Did you read that statute at the time he sent it to you?

A I don't know whether I read it at the time he sent it to me or not.

Q Did you read it during your investigation?

A I probably did.

Q After you did the initial round of interviews on March 13, did you think that there was a violation of section 2913.04?

A I don't think I ever arrived at that conclusion or opinion.

Q So no?

A No. Once again, the purpose of my investigation was to determine who had released information outside of proper City protocol. That was really the scope of the investigation. It wasn't beyond that.

Q Did Chief Kilbane give you the document that is on the page labeled Evans/PTA 087?

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1 A Yes.

2 Q Is this a document dated January 7, 2019?

3 A Yes.

4 Q Can you identify the document, please?

5 A It's to Patrolman Brian Dalton from
6 Lieutenant Len Mazzola, copy to Chief Michael
7 Kilbane, dated January 7, 2019 referencing
8 performance standards between October 1 of 2018
9 and December 31 of 2018.

10 Q Is it correct that where there is a signature
11 line at the bottom of this document that
12 someone has written, "Refused. No just cause.
13 I was threatened and am signing this under
14 duress."

15 A Yes. I see that written in there in
16 handwriting as opposed to typed.

17 Q Were you provided with any other versions of
18 this written reprimand document?

19 A Not that I know of, no.

20 Q And to be more specific, were you provided any
21 version of this document that was not signed
22 and did not contain that writing that we just
23 referenced?

24 A Not that I recall, no.

25 Q Let's turn back to your activity logs at

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Evans/PTA 102 and 103, please.

A Okay.

Q As we discussed earlier, these logs provide a chronology of your activity on this matter, correct?

A Yes.

Q As we sit here today and you look at these, is there anything missing from these activity logs?

A It's possible.

Q Anything that you can recall that you would add to it now?

A It's been a year. I can't recall anything that I would add to it offhand.

Q But as we sit here today, do you think that these are complete?

A Well, I don't know if we're always able to capture all of our time on any type of a case or activity, especially when you're doing several things at one time.

Q I think all of the parties know that.

A Yeah. That's why I'm saying that qualifying it in that way. I just don't know of any time that I've ever been able to capture everything and anything necessary, but I did the best I

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could, let's put it that way.

Q Okay. Sure. And, again, this isn't a trick question. I'm just trying to see if there's anything that you can recall as we sit here right now that's not on this log that you would like to add to it?

A No. And for clarity, I'm not perceiving it as a trick question. I'm just trying to answer it as best I can.

Q Good. Who is Mike Esposito?

A Mike Esposito is an attorney with the law firm of Clemans Nelson.

Q What relevance did he have to your work on this matter?

A I think he was the person who referred the City of Independence to me because he and Clemans Nelson represent the City in reference to employment labor issues.

Q Who is Kopp, K O P P?

A Ron Kopp is a friend of mine and an attorney in the Akron area.

Q What did he have to do with this matter?

A Other than he's a friend of mine, nothing.

Q And you talked to him in connection with your work on this matter?

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Bill Evans

1 A Yes.

2 Q Why did you talk to Kopp about this matter?

3 A I had contacted Ron Kopp because the Chief had
4 indicated that the investigation fit squarely
5 into a case that he was referring to that he
6 uses as lecture material in a course that he
7 teaches.

8 Q What case is that?

9 A I don't remember what the case is.

10 Q What was the case about?

11 A I don't remember. Well, I never read the case,
12 so I really don't know what the case was
13 actually about. I know the general content of
14 the case had to do with some disclosures of
15 some type, but I don't know the case because I
16 never read it.

17 Q And I understand you haven't read it, but tell
18 me what Kopp told you about this case?

19 A He didn't tell me anything about the case.

20 Q Then why were you talking to Kopp about this
21 matter?

22 A As I said, because the Chief had indicated that
23 this case of dissemination of information in
24 the manner in which it allegedly occurred at
25 the City of Independence was similar to the

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1 case that he was referring to and it was a call
2 that I had made to Ron to show that I was doing
3 an investigation for the City of Independence
4 and explained to Ron the circumstances and the
5 fact pattern in general and to make sure that
6 this was good, solid ground to proceed under.

7 Q What did Ron tell you?

8 A He said sure, there was no problem.

9 Q Did you speak with Mr. Kopp about any
10 First Amendment issues?

11 A Well, Ron Kopp is a First Amendment lawyer and
12 he represents the media and he's well known for
13 that. And I knew that Ron Kopp had represented
14 the Akron Beacon Journal and was their lawyer.
15 And Ron was my neighbor at one time, so he was
16 a convenient call to make.

17 Q So you did talk to him about the First
18 Amendment, correct, and how it related to this
19 case?

20 A If it had to do with the fact pattern of that
21 case that I am referring to that I don't know
22 the name of, it had to do with the First
23 Amendment. But I can't tell you as I sit here
24 whether that case had to do with exactly
25 First Amendment issues or not because, as I

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1 said, I never read that case.

2 Q What else did Mr. Kopp tell you in your
3 conversation with him about your investigation
4 for the City of Independence?

5 A As I said earlier, I just laid out the general
6 fact pattern of the City of Independence and
7 went over those issues with him as to whether
8 or not my investigation was good to proceed as
9 we had decided it to proceed with interviews
10 and with what I knew would be potential
11 polygraph examinations later on potentially.

12 Q Did you have this conversation with Mr. Kopp on
13 March 14 as reflected in your activity log on
14 page Evans/PTA 103?

15 A Yes. I could have called Ron a day or two
16 before and he was delayed in getting back with
17 me and, if my memory serves me, that's what
18 happened. He may have been out of town or
19 something like that. I just don't have any
20 specific recollection of that.

21 Q So on March 14 you called him and told him
22 about the results of your initial round of
23 interviews, correct?

24 A No. I didn't say I called him on March 14. I
25 spoke to him on March 14. I said my best

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1 recollection is I had contacted him sometime
2 before that and he was out of town or something
3 like that and returned my call.

4 Q So you spoke with Mr. Kopp on March 14 after
5 your first round of interviews, correct?

6 A That's correct.

7 Q You also spoke with Mike Esposito on March 14
8 as reflected in that same entry on your
9 activity log, correct?

10 A I updated Mike Esposito on March 14, as my
11 activity log indicates.

12 Q What did you discuss or communicate to Mike
13 Esposito on March 14 of 2019?

14 A Just in general what the interviews had
15 produced. I don't have any specific
16 recollection of what I communicated to him
17 though.

18 Q Did you discuss any First Amendment issues with
19 Mr. Esposito on March 14 of 2019?

20 A I don't know about that.

21 Q On that same entry it says, "Both say no
22 problem but retaliation could be a problem."
23 Correct?

24 A Yes.

25 Q If I'm reading that correctly, so would both

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1 refer to Mr. Kopp and Mr. Esposito?

2 A No problem. I don't know what "no problem"
3 actually means a year later, other than
4 proceeding with the investigation it could have
5 been referencing conducting polygraphs or
6 something else. I don't know what that means.

7 Q Let's back up to what my question was, which
8 was when it says, "Both say no problem", and in
9 that same entry you've mentioned Mr. Esposito
10 and Mr. Kopp, does the word "both" refer to
11 Mr. Esposito and Mr. Kopp?

12 A Yes.

13 Q And then going onto the substance of what that
14 means, you're saying you don't remember what
15 you meant by saying that both Mr. Esposito and
16 Mr. Kopp said no problem?

17 A Not specifically I don't know.

18 Q Does the fact that that came directly after a
19 reference to the First Amendment issue jog your
20 memory about whether they were saying there was
21 no problem with the First Amendment?

22 A Well, as I testified earlier, I'm tying that
23 back to that case that I'm referring to having
24 to do with what Chief Kilbane taught in that
25 course that he referred to.

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1 Q Can you explain the meaning of the next part of
2 that sentence in the entry dated March 14, 2019
3 that says, "But retaliation could be a
4 problem."

5 A I don't know if that's an editorial comment on
6 my part or what, but retaliation in what sense.
7 And the characterization in this activity log
8 would be speculation at this point on my part.

9 Q So are you saying you don't know what you meant
10 whenever you wrote, "Retaliation be could be a
11 problem" in that entry?

12 A No. I know what it meant in terms of what the
13 words state, but I don't know whether that's an
14 editorial comment or a comment that was -- I
15 don't know why I put that in there. I don't
16 know the specific reason I put that in there.

17 Q You don't know why you put that in there, but
18 tell me what you meant by it?

19 A Well, retaliation is an issue that's separate
20 and apart from a dissemination of information
21 outside of proper protocol. This case and this
22 investigation had to do with dissemination of
23 information, as we discussed earlier, and
24 retaliation would be separate from a
25 dissemination of information as a different

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1 issue entirely.

2 So, as I said earlier, it could have been
3 an editorial comment offered by Ron Kopp. And
4 as I was speaking to him, I know that when he
5 called me or we talked, he caught me off guard
6 because I wasn't at my desk at that time and I
7 was doing a couple of things at once, so I
8 don't know why those words are recorded as they
9 are.

10 Q What is your understanding of the meaning of
11 retaliation?

12 A Getting back at someone, in lay language.

13 Q How about in legal language what does
14 retaliation mean in the context of this entry?

15 A You broke up. I'm sorry. What was that again?

16 Q What does retaliation mean in the context of
17 this entry?

18 A Well, I don't know what it means in the context
19 of that entry. That's what I was driving at.

20 Q So you don't know retaliation from whom?

21 A No.

22 Q You don't know retaliation against whom?

23 A No.

24 Q You don't know if this was referring to
25 First Amendment retaliation?

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1 A I don't know based on that comment.

2 Q Do you think that Mr. Kopp or Mr. Esposito
3 would know what that was referring to?

4 A Mr. Kopp or Mr. Esposito, they may, they may
5 not. I don't know.

6 Q Did you initially raise the possibility of a
7 First Amendment issue?

8 A As I recall, it was raised as a result of that
9 case that I was referring to.

10 Q Who raised the issue?

11 A Well, in asking me to go back a year and say
12 who raised it, I don't know who raised what
13 issue in terms of what context, as I had
14 indicated. But what I recall is that the Chief
15 had indicated that he lectured on that topic.
16 I think you would probably need to ask the
17 Chief about the topic that he lectured on.

18 Q Sure. Put in a little different way because I
19 know you're a lawyer, did you spot the issue?
20 Did you spot the issue of a possible First
21 Amendment issue and talk to the Chief about it
22 before he brought up that Mr. Kopp lecture on a
23 case that might be related?

24 A I think it's outside of that context in the
25 sense that I was sensitized to that topic in

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1 general. And the reason I was sensitized to
2 that topic in general is because I've had other
3 cases where that issue was raised as a specter
4 and I was simply sensitized to that topic based
5 on the case that I continue to refer to.

6 Q So you brought up the possibility that there
7 would be a First Amendment issue in this
8 investigation?

9 A I didn't say that.

10 Q Okay. Well, that was my question. Did you
11 bring up the First Amendment issue first or did
12 someone else?

13 A I just said I don't know. I don't have the
14 memory of how or why that topic was brought up,
15 but the topic was brought up in the context as
16 I recall it. I'll have to repeat this several
17 times and I don't want to continue to do that
18 and I don't perceive your question as being a
19 trick question. I'm just reiterating what I've
20 already said. As I recall, it came up in the
21 context in some way of that case that was
22 referred to by the Chief.

23 Q When you were doing work for this matter, did
24 you have concerns about whether there would be
25 issues of violating Mr. Mazzola's First

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Amendment rights or anyone's First Amendment rights?

A I didn't have that concern because I was assured and reassured is that there was a breach of departmental policy when this information was disseminated. And the breach of departmental policy was predicated upon the fact that there were written policies in place that any information had to go through the designated communications officer with the City's police department. And the Chief had indicated and provided me documents that were clearly proprietary in nature as they were described to me, so I didn't have any issues or concerns in that context, and the Chief had assured me that he taught that subject matter and referred to a specific case as authority on that topic.

Q Mr. Evans, did you have any concerns during the course of your work on this matter that any of the actions taken could be construed as retaliation against one of the officers?

A There was not any retaliation of anyone during the course of the investigation because there was a collection of information through

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1 interviews being done, but there was no
2 retaliation to be concerned about.

3 Q Did you have any concerns about whether any
4 actions taken by the City of Independence
5 pursuant to your investigation could be
6 construed as retaliation?

7 A I didn't know of whether action was taken
8 against any employees, nor did I have any
9 knowledge of any perceived action being taken
10 by any employees to be concerned about other
11 than identifying who had breached the
12 departmental policy in obtaining the documents.

13 Q Did you reach that conclusion in your
14 investigation?

15 A Which conclusion?

16 Q Well, I want to go back to what you were just
17 talking about. What were the findings of your
18 investigation?

19 A Wow, that's a broad question in regard to
20 findings. But there were similarities in what
21 was disseminated that were derived from
22 internal documents involving not only the
23 documents that you've already identified in
24 exhibits in reference to the write-ups or
25 pre-disciplinary actions, but also some other

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1 documents that you referred to that were very
2 consistent, not only consistent, but
3 practically verbatim and, in most cases,
4 in fact, beyond verbatim in reference to the
5 public records request by Ed Gallek. So the
6 parallels were significant, in my opinion,
7 after evaluating those documents.

8 Q What other findings did you make and present to
9 Chief Kilbane in your investigation?

10 A Well, other than the parallels, the results of
11 a polygraph examination would be presented to
12 Chief Kilbane.

13 Q And you did not administer that polygraph
14 personally, correct?

15 A That's correct.

16 Q Did you evaluate the results of the polygraph
17 performed by your associate?

18 A Yes.

19 Q And what did you tell Chief Kilbane about the
20 polygraph?

21 A That the preliminary evaluation was deceptive
22 in regards to the issues examined on.

23 Q What do you mean by preliminary?

24 A Well, there are algorithms that are evaluated.

25 There are a couple of algorithms that are

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1 evaluated, actually, and there was a hand
2 scoring done of the charts. There's an
3 evaluation of the charts that could be done as
4 the examination is being conducted.

5 And, as I recall, the first communication
6 that I had with the Chief was after the
7 polygraph examination was conducted and he was
8 interested in knowing the results, so that
9 information was conveyed to him. And I don't
10 think we would have had time to interpret those
11 results through a hand scoring and evaluate it
12 accordingly at that point, so it would have
13 been a preliminary evaluation at that time.

14 Because, as I said, I think the
15 communication to the Chief in regard to the
16 results of the polygraph examination was
17 probably sometime in the early, you know, it
18 was probably after 4:00, but I don't remember
19 exactly when.

20 Q Referring to your activity log on page
21 Evans/PTA 102, on the first entry is it correct
22 that you called Mike Esposito on March 22 to
23 brief him about polygraph?

24 A Yes. That's what the entry indicates, yes.

25 Q What did you tell Mr. Esposito in that

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1 conversation?

2 A Going back, I don't know precisely what the
3 details of that conversation would have
4 included over a year ago. It looks like I
5 briefed him about the polygraph.

6 Q Tell me what you remember about what you said
7 and what he said during that conversation?

8 A I honestly can't tell you any details that I
9 remember about that conversation.

10 Q Did he raise any concerns about First
11 Amendment?

12 A Not that I recall, no.

13 Q Did he raise any concerns about retaliation?

14 A Not that I recall, no.

15 Q Did he raise any concerns about retaliatory
16 discharge?

17 A I don't even know that that would have been
18 talked about at that point.

19 Q Did he raise anything about wrongful discharge?

20 A I don't recall.

21 Q We talked a little earlier about these activity
22 logs and how they weren't necessarily exactly
23 contemporaneous, but these entries were written
24 reasonably contemporaneously, correct?

25 A Reasonably, yes.

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1 Q So maybe you would go back and add something
2 you did the day before or something, right?
3 But we're not talking months later or weeks
4 later you would add things back in, correct?

5 A No. No. No. It was within reasonable time
6 proximity.

7 Q About how reasonable? What's your usual
8 practice?

9 A Within a couple days I would say or less.

10 Q Also on March 22 of 2019 your activity log
11 reflects that you had a telephone conference
12 with the Mayor, the Chief, the Law Director,
13 the HR Director and Mr. Esposito, correct?

14 A Yes. It looks like there was a call in to be
15 made at 1:30 to a particular number.

16 Q What was discussed in that call with these
17 people from the City of Independence and
18 Mike Esposito?

19 A I don't remember what the discussion was in
20 particular, other than the generalized place
21 where we were on the investigation with, as
22 I've already testified to, the similarities in
23 the documents and the polygraph examination.

24 You know, I note something here. I'm not
25 positive every single person was on that call,

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1 but that was who was to be on the call.

2 Because I've got a call in notations here, and
3 at times I write on my activity log when
4 something is to be taking place, so it looks
5 like seven people to be on that call. I don't
6 know that every single person was on the call,
7 but I can tell you that that's who was supposed
8 to be on the call.

9 Q Did anyone raise any concerns about the
10 First Amendment during that call with respect
11 to your investigation and the actions to be
12 taken as a result of your investigation?

13 A That detail is not noted and my answer would
14 have to be I don't know.

15 Q Do you remember anyone raising any concerns
16 during that call about retaliation with respect
17 to your investigation or the results of your
18 investigation?

19 A No. I don't remember that.

20 Q How long does it usually take to produce a
21 report following a polygraph exam?

22 A Well, as I said, a report would be, you know, a
23 verbal report, a soft report and then a hard
24 analysis.

25 Q Tell me the hard analysis?

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1 A Yeah. The hard analysis it may take -- hand
2 scoring and so forth coupled with algorithm
3 evaluations, it may take up to two hours to
4 complete.

5 Q Why did your associate polygrapher not issue a
6 report until December 2019 for Mr. Mazzola,
7 over nine months after the polygraph took
8 place?

9 A We weren't providing any reports of any kind
10 because there is a lot of time that it takes to
11 create a report, so that's why there was no
12 report completed or even created regarding the
13 investigation. And the polygraph was part and
14 parcel to the investigation and that report was
15 not requested until then. When it was
16 requested, we supplied a report.

17 Q Why was time a concern?

18 A Time?

19 Q You mentioned that you did not prepare a report
20 because it takes a lot of time to prepare a
21 report. Why was time an issue?

22 A Well you're talking about time on case or time
23 on task?

24 Q I'm asking you whatever you meant when you said
25 that it took time to create a report and that's

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1 why you didn't do it until nine months later
2 when it was requested. Was it a budget issue,
3 sir? Was the City trying to avoid paying for
4 the report at that juncture?

5 A No. That wasn't the reason at all.

6 Q Then what was --

7 A Well, the reason the report was produced, as I
8 understood and remember, was because in the
9 pleading there was a -- I don't remember what
10 it was exactly, but there was an inference of
11 something having to do with a polygraph that
12 was incorrect, that there was something in my
13 office that was alluded to in the pleading that
14 was not only incorrect, but also casting
15 dispersion on Ken Butler's integrity of some
16 kind in rendering the report. If I looked at
17 the pleading, I would be able to tell you
18 exactly what it was.

19 Q And as we sit here, you don't know what that
20 is?

21 A I can look at the pleading and tell you, but
22 you're asking me why the report was issued, and
23 it was in order to correct that incorrect
24 language, verbiage or inference in the
25 pleading.

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Bill Evans

1 Q Let's go back to my original question which was
2 why did you not produce a report? Why did your
3 company not produce a report right after the
4 polygraph?

5 A Well, it was simply because Lieutenant Mazzola
6 resigned and there was no reason for a report
7 to be issued.

8 Q Who asked you to issue the report after
9 Mr. Mazzola filed this lawsuit?

10 A It was a law firm representing -- let me think.
11 It was -- I'm trying to remember the name of
12 the law firm. It was Mr. Doyle, I believe.

13 Q Did Chief Kilbane ask you to give a polygraph
14 to anyone other than Mr. Mazzola?

15 A Well, after Mr. Mazzola showed deception
16 indicating a problem, the investigation wasn't
17 necessarily complete. And when he tendered his
18 resignation, there was no need to conduct an
19 examination on anyone else at that point.

20 Q Why not?

21 A Well, I didn't know that he had resigned. I
22 didn't know that there was -- anything that
23 happened. I had called the Chief to see what
24 else we needed to do and he indicated that
25 Lieutenant Mazzola resigned and I was kind of

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1 caught off guard because no one had informed me
2 that had occurred.

3 Q So going back to my question, why was there no
4 need to do a polygraph for anyone else after
5 Mr. Mazzola resigned?

6 A I think they decided to unilaterally terminate
7 the investigation at that point because there
8 was no point in proceeding.

9 Q But why was there no point in proceeding?

10 A You would have to ask them. I don't know.

11 Q Okay. Is that something they told you? Did
12 they tell you there's no point in proceeding?

13 A No.

14 Q Okay. Then where is that coming from, that
15 inference?

16 A It's just my generalized conclusion of the
17 facts at that point. The information that we
18 examined on for the purpose of the polygraph
19 was predicated upon those similarities in the
20 dissemination of information, as I had
21 testified to earlier, and the highlighted areas
22 on several documents all ending up in the
23 public records request. And it appeared as
24 though the public records request was merely
25 issued to cover the fact that information was

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1 already in hand or as a possibility that that
2 was the case. To identify then the concerns,
3 the polygraph was conducted.

4 Lieutenant Mazzola had narrowed the field
5 of potential people who could have disseminated
6 that to the news media to include himself, the
7 Chief and some other individuals on that list,
8 and his polygraph ended up deceptive.

9 So I'm speculating when I say that they
10 probably had no reason to proceed in their
11 minds. Maybe I'm wrong on that speculation and
12 I don't want to speculate and I would pull that
13 back, but I really don't know the reason why
14 the investigation didn't go beyond that.

15 Q Did they conclude that Mr. Mazzola shared the
16 information with the media?

17 A Did they conclude that? I don't know.

18 Q Did you conclude that?

19 A I concluded that there was deception on the
20 polygraph.

21 Q Okay. So you gave them the results of the
22 polygraph showing results indicative of
23 deception, correct?

24 A Yes.

25 Q And then they terminated your investigation,

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1 correct?

2 A I don't know if they carried the investigation
3 on beyond what I did or not. There were some
4 loose ends that needed to be checked out, as I
5 recall.

6 Q What loose ends would you have checked out?

7 A You're stretching my memory again, but what
8 comes to mind was that there was a -- it's in
9 some of the documents and I just don't remember
10 what the name of this IT issue might have been
11 as to whether it was captured -- in other
12 words, I'm referring specifically to the
13 disciplinary notice and the pre-D write-up; the
14 pre-D write-up and the pre-D notice of Officer
15 Dalton and Lieutenant Mazzola.

16 Lieutenant Mazzola had indicated to me
17 that his notice was placed in an envelope on
18 his keyboard and it was tri-folded in an
19 envelope. And being placed on his keyboard, it
20 was an original. And the Chief had indicated
21 that there was only one of those copies
22 generated and Lieutenant Mazzola got that copy.
23 And, as a result, it ended up in the hands of
24 the news media in some way, along with
25 Brian Dalton's write-up and pre-disciplinary

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1 action. And those were items that were not
2 common, popular or to be disseminated outside
3 of the police department.

4 Brian Dalton had told me that absolutely
5 he was very upset about the fact that it was
6 disseminated. Lieutenant Mazzola was very
7 upset about the fact that information, as he
8 indicated to me, was retrieved from potentially
9 his office out of a very thick binder that he
10 had ultimately placed that tri-fold in.

11 And the loose end that I'm referring to
12 is whether or not that document had been
13 disseminated in some way and captured within
14 the computer system as a pdf file of some kind,
15 which was never nailed down in that regard.
16 And, as I said, that was a loose end that I had
17 intended to check out, but Lieutenant Mazzola
18 had resigned in the meantime and the
19 investigation was terminated.

20 Q Did you intend to have a polygraph exam done on
21 anyone else?

22 A I'm sorry. Repeat that, please.

23 Q I'll rephrase it even.

24 Did you plan to have anyone else undergo
25 a polygraph exam at the City of Independence

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Police Department?

A Well, the Chief had always indicated that more than one person could potentially have been involved in some way, but I didn't know if anyone else was involved or not.

Q Sir, I would like you to answer my question.

Did you plan or want to have anyone else do a polygraph exam?

A I never told the Chief that I wanted to test anyone else after the examination was completed on Lieutenant Mazzola.

Q But did you want to have anyone else do a polygraph exam?

A By name, no. In the beginning potentially others could be examined besides just one, naturally.

Q Did the Chief ask you to have anyone else do a polygraph exam?

A No.

Q Did the Chief think that Mr. Mazzola was the person who gave the information to the media based on what he told you?

A I don't know. I think Lieutenant Mazzola was on the list of potential suspects.

Q He didn't give you an indication about whether

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1 he thought Mr. Mazzola was the person who
2 disclosed or not?

3 A No. And, actually, he thought that potentially
4 Brian Dalton may be involved in it because of
5 his write-up and others could potentially have
6 been involved in some other way, others being
7 unidentified by name.

8 Q I would like to you refer to Plaintiff's
9 Exhibit 3, please, which is the news article
10 by Ed Gallek dated May 3, of 2019.

11 THE NOTARY: Before we start on
12 this document, can we take a quick break?

13 MS. SAVOIE: We can take a quick
14 break.

15 (Recess taken.)

16 Q Mr. Evans, before we took a restroom break we
17 were looking at Plaintiff's Exhibit 3. Can you
18 identify that document, please?

19 A Yes. It's by Ed Gallek and it's May 3, 2019,
20 7:43 p.m., Independence, Ohio. "Fox I-Team
21 found the Independence Police Department hired
22 an outside firm" that you referred to earlier.

23 Q Yes. And is it correct that within the last
24 few days you looked at this article on the
25 internet?

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Bill Evans

1 A I just looked at it this morning. Can you see
2 me all right on my picture?

3 Q Yeah. I can see you better now. Thank you for
4 adjusting.

5 So you read this this morning online,
6 correct?

7 A Yes.

8 Q Have you ever watched the video or did you see
9 it live?

10 A No. I don't think I ever -- I don't remember
11 ever seeing it before today.

12 Q Did you watch the video today?

13 A No.

14 Q Do you see that Ed Gallek stated in that
15 article that Mr. Mazzola did not provide any
16 information to the news team?

17 A However, he never supplied -- "During the
18 internal investigation one police supervisor
19 retired. Multiple sources said he left under
20 pressure, however, he never supplied any
21 information to the I-Team."

22 I don't see that it says that he didn't
23 do it. I see that -- I mean I'm taking
24 literally what the words say. "However, he
25 never supplied any information to the I-Team"

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1 is a statement. I don't see that it says that
2 he said Lieutenant Mazzola said he never
3 supplied that, so I don't agree with that
4 conclusion.

5 Q You don't agree that this news article says,
6 "He never supplied any information to the
7 I-Team", referring to the police supervisor who
8 retired?

9 A I'm reading exactly what it says and it says,
10 "However, he never supplied any information to
11 the I-Team." I see that as that's Ed Gallek
12 speaking and not Lieutenant Mazzola, because it
13 isn't a quote.

14 Q Right. No one is saying that this is
15 Leonard Mazzola speaking in this article.
16 This is an article written by Ed Gallek
17 according to the byline, correct?

18 A Right. I misunderstood your question. If it
19 could be read back, the original question,
20 maybe I misheard it.

21 Q I'll ask it again. I'm not trying to make this
22 complicated. I'm just trying to establish
23 what's written here in the article.

24 Is it correct that this article says that
25 this police supervisor who retired never

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1 supplied any information to the I-Team?

2 A And as I said, what I'm -- and I'm not making
3 it complicated either. I don't want it to be
4 perceived that way.

5 The words say that he never supplied any
6 information to the I-Team as being that is
7 Ed Gallek's interpretation and presented in
8 statement form. I don't see a quote that as
9 most news reporters would do, if it's a
10 verbatim statement, put it in quotes as to
11 that's the information that is being
12 identified.

13 So the way I understood your question
14 earlier was that Lieutenant Mazzola told
15 Gallek, and I don't see it as that being the
16 way it's disclosed here in this text form, the
17 narrative.

18 Q Right. So the question is, is it correct that
19 this news article says that Mr. Mazzola was not
20 the person to supply information to Ed Gallek?

21 A And as I said already, that's not what it says.
22 That would be an incorrect interpretation as to
23 what I'm reading. It doesn't say that.

24 If it said that, my familiarity with news
25 reporters would be it's a quoted type of

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1 response and it is preceded by, "He said" or,
2 "Lieutenant Mazzola said" or, "So and so said",
3 and then it's quoted thereafter. But that's
4 not what I'm reading in text form.

5 Q Who would be quoted to say what the I-Team
6 knew? Are you saying that you would expect one
7 of their reporters to quote themselves in this
8 article and that's why you won't agree that
9 this is what this says?

10 A No. That's not what I'm saying at all.

11 Let's go over this the way I'm
12 interpreting it. That's what you're asking me
13 for. "During the internal investigation one
14 police supervisor retired." That's a statement
15 by Ed Gallek.

16 "Multiple sources said he left under
17 pressure." That's conjecture. That's
18 third-party information. I categorize that as
19 hearsay.

20 "However, he never supplied any
21 information to the I-Team." It doesn't
22 indicate that the source of that statement is
23 Lieutenant Mazzola. I don't know who the
24 source of that information is. And the way I
25 understood your original question was that it's

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1 Lieutenant Mazzola who said he never supplied
2 information to the I-Team.

3 Q I'm not asking anything about what Mr. Mazzola
4 said. I'm asking about what this news article
5 says.

6 Does this news article say that the
7 police supervisor who retired never supplied
8 any information to the I-Team?

9 MR. STRANG: Objection.

10 MR. SNYDER: Objection also.

11 This is Brad Snyder. I object. This is
12 getting argumentative about something the
13 witness had no involvement in preparing.

14 Q Mr. Evans, are you seriously saying that you
15 don't understand this paragraph in this
16 article?

17 A I never said that.

18 Q Tell me what your understanding of this
19 paragraph of this article is?

20 MR. STRANG: Objection.

21 A No. I understand what I'm reading. So what
22 I'm reading is an interpretation by a news
23 reporter based on multiple sources who are
24 unidentified that states that the reporter
25 states and concludes he never supplied

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1 information to the I-Team. So I don't know the
2 authenticity or the accuracy of that conclusion
3 by this reporter any more than you do based on
4 what you're reading, what I'm reading.

5 Q Okay. I think I understand what you're saying.

6 Let's back up for a second and if you
7 would go up to the beginning of the article
8 which is page 2 of the 13-page pdf.

9 Do you see where the byline says,
10 "By Ed Gallek"?

11 A Yes.

12 Q And do you remember Ed Gallek was the reporter
13 who came to the police station and who made
14 public records requests indicating that he had
15 knowledge of the information that had been
16 provided to the media?

17 A Yes.

18 Q Do you remember he was the person who wrote
19 that article that came out January 14 of 2019?

20 A Yes.

21 Q Okay. And do you understand that he is an
22 I-Team reporter?

23 A Yes.

24 Q Okay. So you understand that Ed Gallek can
25 speak on behalf of the I-Team, correct?

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MR. STRANG: Objection.

Q This is not complicated. I mean Ed Gallek is the reporter who was publishing stories about the information from the Independence Police Department, correct?

A Yes.

Q And he is saying here as a statement of fact that Lenny Mazzola never supplied any information to the I-Team, correct?

A He's not stating that as fact.

Q Are you in the prior sentence assuming that for some reason he's continuing to refer to, "Multiple sources said he left under pressure"?

A If you could be clearer as to how that's a statement of fact that Lenny Mazzola did not supply it, I might understand the question better.

Q Okay. If the statement is, "However, he never supplied any information to the I-Team" and that is something written by the I-Team, isn't that a statement of fact?

A The statement of fact is not predicated on accuracy other than sources unidentified. If I had interviewed those individuals and I knew that they had said something, then I could say

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1 it's a statement of fact. Since I don't know
2 who these interviews are of, how many there are
3 and it's ambiguous in that regard, I don't know
4 that that's the case at all. It's a
5 speculation on my part, as I would assume it
6 would have to be a speculation on your part
7 that Lenny Mazzola is saying, "I never supplied
8 the information."

9 Q If I said to you that someone did not tell me
10 something, would that require speculation on my
11 part --

12 MR. STRANG: Objection.

13 Q -- or do I have personal knowledge of what
14 people told me?

15 A Let me be clear on what I'm trying to convey
16 here. There is nothing in the narrative that I
17 see -- if it's there, please point it out to me
18 because I don't see it -- that he, Lenny
19 Mazzola, said anything. However, I do see
20 quotations, "Chief Michael Kilbane said 'send
21 me an e-mail with questions.'"

22 My point is very simple. As it relates
23 to a statement made by Lieutenant Mazzola, if
24 it were stated by Lieutenant Mazzola, I would
25 have to believe based on the tenor and way in

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1 which this is created, that he would have also,
2 he being Gallek, would have put that in quotes
3 as well, because I see several things that are
4 quoted verbatim.

5 The next sentence after that, "We
6 responded with" -- he, Gallek, puts in quotes,
7 "We've done that." And he's alluding then to
8 the previous statement by Chief Kilbane. So
9 your conclusion that you're making that
10 Lieutenant Mazzola didn't supply the documents
11 doesn't make sense to me.

12 Q Okay. Mr. Evans, please read the short
13 paragraph that begins on page 3 of the pdf that
14 starts with, "During the initial investigation"
15 into the record.

16 A All right. Which Bates stamp?

17 Q It's not Bates stamped. It's page 3 of the pdf
18 toward the bottom of the page, the paragraph
19 beginning with, "During the initial
20 investigation."

21 A "During the initial investigation." All right.
22 You're referring to the May 3, 2019, 7:43
23 document that we've been talking about, you're
24 still referring to that, right?

25 Q Yes.

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1 A "And we've heard about these new traffic ticket
2 violation quotas she said."

3 Q No. I'm talking about page 3 of 13 of the pdf,
4 toward the bottom of the page there's a
5 paragraph that begins, "During the initial" --
6 I mean, "During the internal investigation."

7 A Oh, okay. Okay. Okay.

8 Q Please read that out loud into the record and
9 then we'll move on.

10 A "During the internal investigation one police
11 supervisor retired. Multiple sources said he
12 left under pressure. However, he never
13 supplied any information to the I-Team."

14 Q And to be clear, there's a period after the
15 word "pressure", correct?

16 A Yes.

17 Q And the word "however" begins a new sentence,
18 correct?

19 A Yes.

20 Q Okay. Were you aware that Mr. Gallek also
21 acknowledged that Lieutenant Mazzola was not
22 the source who provided him information in a
23 phone call with union representative Chuck
24 Wilson and Lieutenant Mazzola?

25 A When would that be? I don't know anything

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1 about that. I don't recall anything about
2 that.

3 Q So were you aware of any phone call where
4 Ed Gallek told Chuck Wilson and Lenny Mazzola
5 that Mr. Mazzola didn't provide him any
6 information?

7 A Was that during the investigation that you're
8 referring to?

9 Q I'm talking about any phone call you would have
10 heard to that effect. Were you aware of that?

11 A No. I don't know of anything like that. I
12 know that Lenny Mazzola denied this the whole
13 time. He denied it to me too, so.

14 Q So you haven't heard a recording of a
15 conversation with Ed Gallek, Chuck Wilson and
16 Lieutenant Mazzola where Mr. Gallek
17 acknowledges that Lenny was not the source of
18 information?

19 A No. If you refresh my memory as to why I
20 should know that, that might help. But I don't
21 know anything about that.

22 Q Oh, sir, I'm not saying you should know that
23 necessarily. I'm just asking if you had
24 knowledge of it.

25 A No. I don't recall anything like that. I mean

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1 it was -- Lieutenant Mazzola denied involvement
2 about this, so that was just -- I mean that was
3 the purpose for the polygraph, right.

4 Q But Kilbane never told you that Mr. Gallek
5 acknowledged that Lenny was not the source,
6 correct?

7 A I don't -- you know, I don't recall anything
8 like that.

9 Q And the Law Director didn't tell you that
10 Mr. Gallek acknowledged that Mr. Mazzola was
11 not the source, correct?

12 MR. STRANG: Objection.

13 MS. SAVOIE: What's the
14 objection? Is there a privilege between the
15 Law Director --

16 MR. STRANG: Is there a good
17 faith basis for asking these questions? You
18 can go ahead and ask them, but my objection is
19 on the record.

20 Q Mr. Evans, you can answer.

21 A No. I think I already have. I knew that
22 Lieutenant Mazzola was denying any involvement
23 categorically.

24 Q Yes, but I'm asking if anyone told you that
25 Mr. Gallek, Ed Gallek, the reporter who

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1 reported the information, acknowledged and
2 specifically said that Lenny Mazzola was not
3 the source of that information?

4 A You know, I could have heard about that at some
5 point in time by somebody at some point, but I
6 don't have any specific recollection of that
7 ever occurring. But, you know, I certainly
8 wouldn't say that that might not have come up
9 at some point in time. I just have no idea of
10 when or who or what. I don't have any specific
11 recollection of that.

12 Q So you have no recollection of anyone saying to
13 you that Gallek had acknowledged Mazzola was
14 not the source, correct?

15 MR. STRANG: Objection.

16 Q I'm just trying to understand what you're
17 saying, sir. Can you answer the question?

18 MR. STRANG: Objection.

19 A I think I already have answered that question
20 several times. I don't remember anything like
21 that at any time coming from anybody. I'm not
22 going to say it didn't happen. It would be a
23 very minor thing that I wouldn't -- I mean it
24 wouldn't be anything that I would have any
25 reason to recall.

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1 Q It would be a minor thing if someone told you
2 that the news media acknowledged that Lenny
3 Mazzola was not the source of the information
4 related to your investigation?

5 A It would be in that sense because that was
6 already on the table as being a denial by
7 Lenny Mazzola.

8 I'm going to go back to what I've already
9 said. I have no recollection of any
10 conversation like that at any time with
11 anybody.

12 Q Your investigation was an attempt to find out
13 who provided information to Ed Gallek, correct?

14 A Yes.

15 Q And no one, including Law Director O'Brian,
16 told you that Ed Gallek said Lenny Mazzola was
17 not that source, correct?

18 A No one that I recall ever told me anyone was
19 the particular source or not the particular
20 source as it related to my investigation
21 objective of trying to determine who it was
22 that I recall, other than the information that
23 I've already testified to that was people who
24 could have potentially had reason or cause to
25 disseminate the information. Does that answer

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your question?

Q It provides some information, but I would like the court reporter to read back my last question and I would like you to say, "Correct" or, "Incorrect" so I make sure I understand you, please.

(Record read.)

A Okay. The answer is I don't recall if anyone ever said that or not or when, but to my best recollection, it was never stated to me.

Now, I do remember one thing, and it would be during the polygraph that Leonard Mazzola -- or no. It was maybe during the interview, now that I think about it, before the polygraph that Leonard Mazzola said that there was an I-Team investigation that I had never seen, an investigation type of news commentary of some kind by Ed Gallek, but I don't even remember what that was that he showed me that day during the interview preceding the polygraph. So if that was what you're referring to and it ties back into what we're talking about now, this I-Team -- let me get the date on it, the one that we've been having this discussion about, then yes, I

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1 remember that. But beyond that, I don't have
2 any specific recollection of anything
3 associated with what your questioning me about
4 now.

5 Q Okay. So that was a really long answer and I
6 appreciate that you're providing information,
7 but I want everything to be clear here. Okay?
8 So I'm not talking about what Lenny Mazzola
9 said to you during a polygraph or at any time.
10 I'm talking about facts you were told by people
11 related to your investigation. Okay?

12 So did anyone ever tell you that
13 Ed Gallek said Lenny Mazzola was not the source
14 of this information that he published about?

15 MR. SNYDER: Objection.

16 MR. STRANG: Objection.

17 THE WITNESS: Can I answer that?

18 Q Yeah. You can answer.

19 A The reason that I'm trying to answer your
20 question is because your question has in it,
21 "Did anyone ever", all right. That's pretty
22 broad.

23 Q Yes.

24 A So the reason that my answer is very long is
25 because anyone ever would include Leonard

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1 Mazzola, if that's what he pointed out to me
2 the day that he was in the office for his
3 polygraph. If it happened to be the May 3,
4 2019 -- well, I guess it couldn't have been
5 because he was in my office in March.

6 So yeah, okay. Back to that. I don't
7 have recollection of anything associated with
8 this line of questioning.

9 Q Did Lenny tell you that Ed Gallek had
10 acknowledged that Lenny wasn't the source at
11 the time of the interviews or did Lenny Mazzola
12 tell you that he was not the source?

13 A As I said earlier, he was categorically denying
14 any involvement in dissemination of any of the
15 information in general.

16 Q Right. Do you understand I'm not asking you
17 about what Lenny Mazzola said? I'm asking you
18 about whether you knew what Ed Gallek had said.
19 Do you understand that?

20 A Right. The only conversation I've ever had
21 with Ed Gallek was when he called my office one
22 time and asked me to comment. I gave him no
23 comment. So I don't have --

24 Q Okay. And so did anyone at any time tell you
25 that Ed Gallek said Lenny Mazzola did not

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1 provide this information to him?

2 MR. SNYDER: Objection.

3 MR. STRANG: Objection.

4 Q I just need yes or no, sir. Please answer the
5 question.

6 A There are certain questions that can't be
7 answered yes or no.

8 The answer that I've given and I'll
9 continue to repeat is not that I recall did I
10 ever know that.

11 Q So as we sit here today, you don't recall
12 anyone ever telling you that Ed Gallek said
13 Lenny Mazzola was not the source, correct?

14 A I don't recall that.

15 Q Okay. Isn't that something that would be
16 important to your investigation and you would
17 probably remember it if someone had told you
18 that?

19 A If that information was given to me after the
20 investigation ended, which I tried to point out
21 to you this dissemination of information was
22 May 3, 2019 that we've been talking about for
23 the last half hour.

24 Q And I'm not talking about that right now. What
25 I'm saying is if you found out that a reporter

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1 said, "Lenny was not the source", wouldn't you
2 want to go back and complete your investigation
3 and find out who the source was as an
4 investigator?

5 A I would like to finish my point. What day was
6 the polygraph?

7 Q March 20, 2019.

8 A Correct. This dissemination of information by
9 the I-Team was May 3, a month-and-a-half or so
10 later. It's irrelevant to me. The
11 investigation was over and done as far as I
12 knew at that point, so I wouldn't have any
13 interest in knowing whether or not there was
14 some indication about who said what about whom.
15 It wouldn't matter to me at that point.

16 Q That's because you were no longer doing the
17 work because your investigation had terminated,
18 right?

19 A That's the point I've been trying to make. So
20 if it was said, it was said. If it wasn't
21 said, it wasn't said.

22 I don't remember it being said, so I take
23 exception to the fact of being pressed on an
24 issue that I've repeatedly said I have no
25 memory of.

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1 Q As an investigator if you had learned that
2 Lenny was not the source -- and I understand
3 you weren't retained to go back, were you,
4 isn't that correct? Chief Kilbane, no one from
5 the City of Independence retained you to come
6 back after this news article came out, did
7 they?

8 A No. We're talking about May 3?

9 Q Sure. Yeah.

10 A So no. No, I wasn't retained to go back.

11 Q So since your investigation was terminated
12 after Lenny Mazzola's polygraph, you haven't
13 been back to do any further investigation for
14 the City related to this dissemination of
15 information, correct?

16 A That's correct.

17 Q Right. And neither Kilbane, nor O'Brian asked
18 you to reopen the investigation, correct?

19 A Correct.

20 Q Would you be curious to know who did it if
21 Lenny didn't do it?

22 A Well, I think anyone would be curious.

23 Q I think so too.

24 MR. STRANG: Objection. Move to
25 strike.

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1 Q Were you involved in any discussions about the
2 Independence Police Department's decisions
3 related to Mr. Mazzola's employment?

4 A He had indicated to me during my questions, he
5 being Lieutenant Mazzola, how long he had been
6 employed at the department and when he started
7 and so forth. Are you referring to that?

8 Q I'm talking about his resignation or retirement
9 or whatever word you used earlier. Were you
10 involved in any discussions with anyone from
11 the City about what was going to happen with
12 Mr. Mazzola's employment as a result of the
13 investigation?

14 A I wasn't employed to give that type of comment
15 or advice or information. I was employed to
16 investigate the facts as a fact finder.

17 Q Right. I understand. But were you part of any
18 discussions about what was going to happen with
19 his employment because of your investigation
20 even if you didn't have authority to make
21 decisions on that?

22 A No. I wasn't involved in making decisions or
23 having any input into what was going to happen
24 with him. As I testified earlier, it came as a
25 surprise when I found out that he resigned.

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1 Q So you learned that he resigned because was it
2 Chief Kilbane called you, is that correct?

3 A No. I called to see if there was any
4 follow-up.

5 Q About when did you call him?

6 A I don't know. It was within a week I would
7 say, within a week of the polygraph
8 examination.

9 Q Was the polygraph examination on March 20 of
10 2019 the last action in your investigation?

11 A Yes.

12 Q So after the polygraph did you go home and
13 await further instructions from the City
14 regarding the investigation?

15 A Well, this wasn't the only case that I was
16 working on. I had multiple cases that I was
17 working on and there were other things that
18 were pressing, so it wasn't on my radar screen
19 in that context.

20 I was merely calling because I had
21 obviously a reason to call. There was a break
22 in my schedule to see if we had had anything
23 else to do on it. As I said, there might have
24 been a loose end or two that needed to be dealt
25 with and I hadn't heard anything, so I made a

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1 phone call.

2 Q Did you ever hear anything from anyone about
3 what the City told Mr. Mazzola were his options
4 based on the results of the investigation?

5 A I think that resignation came as a surprise to
6 whomever it was tendered to and there are
7 always different options in any of these cases.
8 So, you know, one option obviously is to do
9 nothing. The other option is to -- I mean
10 they're all the same. All of these types of
11 cases are pretty much the same as it relates to
12 what options are.

13 So in this particular situation or case I
14 have no idea -- you have to understand that I
15 work on a lot of these cases and have for many,
16 many years, and they all kind of run together
17 in regard to what options may be or may not be.

18 Q Mr. Evans, let me make the question more
19 specific because we have some time constraints
20 this afternoon. So did anyone tell you that
21 the City of Independence gave Mr. Mazzola the
22 choice between being demoted from Lieutenant to
23 patrolman and put on the Brady Ohio list or
24 retiring immediately? Did anyone tell you
25 that?

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MR. STRANG: Objection.

A No one told me that they told him that.

Q Okay. Thank you. I'm going to move on because, like I said, we have time constraints. And I don't want to cut you off, but I need to get back to some other questions.

Did Chief Kilbane or anyone at the City of Independence provide any other department policies to you other than what is contained in the documents you've produced that are Plaintiff's Exhibit 2?

A No.

Q Did Chief Kilbane or anyone else from the City tell you that there was a policy against doing polygraph examinations of employees unless there was a criminal investigation?

A Yes, much later after it was conducted.

Q I'm sorry. Can you repeat that, please?

A I said yes, I found that out much later after the examination was conducted.

Q But at the time you were going in and doing your investigation, no one told you before the polygraph that policy 1033-F-2 prohibited that, correct?

A No. That was something that I covered before

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1 we ever did that in one of the conversations
2 either with Mike Esposito or the Chief or
3 someone and it was -- in fact, I covered that I
4 think with Sara Liva and during one of the
5 interviews she had the CBA available to her and
6 researched that and said that it was silent on
7 that topic.

8 Q So the CBA is the Collective Bargaining
9 Agreement between the Police Union and the
10 City of Independence, correct?

11 A Yes.

12 Q And the Union attorney, Sara Liva, told you
13 that the CBA was silent with respect to the
14 question on whether polygraphs were allowed,
15 correct?

16 A Yes.

17 Q And I mean, this is a question you went over
18 with Chief Kilbane, right, about whether
19 polygraphs were allowed, correct? I mean --

20 A Well, I don't know if I went over whether they
21 were allowed or not in terms of the context
22 that you put it in, because you had indicated
23 earlier about the criminal investigation aspect
24 of it. The only time that I went over that was
25 after I was provided the Chief's order which

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1 was, I don't know, was several years old as I
2 recall. I saw it then for the first time.

3 Q I'm going to send everyone a document in the
4 chat really quick.

5 Is it correct that the first page of that
6 is a letter from William Doyle to Ashlie
7 Case-Sletvold, is that correct? Are we looking
8 at the same document?

9 A Yes. July 12, 2019 public records request.

10 Q Yes. That's the RE line.

11 If you wouldn't mind going down to page 4
12 of the pdf, please. And these pages are not
13 numbered, unfortunately, but we can see on the
14 pdf itself.

15 Okay. Are you on page 4, sir?

16 A Yeah. You said they're not numbered. What
17 does the page you're referring to -- is it
18 supervisor's responsibility, item Y.

19 Q No. The first letter is F, examinations and
20 searches.

21 A Okay. Let me look there.

22 Q Please read numbers 1 and 2 into the record?

23 A "Examinations and searches. The department may
24 direct the employee to undergo an alcohol,
25 blood, urine, psychological, polygraph, medical

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1 exam or any other exam not prohibited by law if
2 it is believed that such examination is
3 pertinent to the investigation." That's item
4 1.

5 Item 2. "Polygraph examinations shall
6 only be used in criminal investigations."

7 Q We'll introduce this as Plaintiff's Exhibit 4
8 to your deposition.

9 - - - - -

10 (Plaintiff's Exhibit 4 was marked.)

11 - - - - -

12 Q Do you see on page 2 of the pdf that this is
13 General Order number 103?

14 A Yes. Effective September 5, 2011.

15 Q And were you given this order number 103
16 whenever you were doing your investigation?

17 A No.

18 Q If you had read this, would you have done a
19 polygraph on Mr. Mazzola?

20 A I probably would have deferred to the
21 Law Director or someone else based on item 2
22 as to how we were proceeding if this were a
23 criminal investigation.

24 Q But as of March 20 this was an administrative
25 investigation, correct?

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1 A Yes.

2 Q You were doing this under Garrity, correct?

3 A Yes.

4 Q So if you were making the judgement on your
5 own, would you have done a polygraph
6 examination for Mr. Mazzola?

7 MR. STRANG: Objection.

8 Q You can answer.

9 A As I said, I would have deferred to a higher
10 authority at that point.

11 Q I understand your impression of the right thing
12 to do.

13 MR. STRANG: Objection.

14 A What I would do is defer to a higher authority
15 on my part. And the right thing to do on the
16 part of the decision-makers would have been to
17 make the determination as to whether to convert
18 this from Garrity back into a criminal
19 investigation if the polygraph examination was
20 that critical to the outcome.

21 Q And in your work you only have the documents
22 that your clients provide to you, correct?

23 A Yes.

24 Q So if you didn't get this document, you
25 wouldn't be able to conjure it out of thin air,

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1 would you?

2 A You broke up the last four or five words. I
3 wouldn't feel what?

4 Q If someone from the City had not given you this
5 document, you would have no reason to have it,
6 correct?

7 A Right. Yes.

8 Q Let's go back briefly to pages 102 and 103 of
9 your documents that are Plaintiff's Exhibit 2,
10 your activity logs.

11 A I have them now.

12 Q So on page 103, let's return to that portion of
13 the language that is the entry for 3-14-19
14 where it references one or more conversations
15 with Mr. Esposito and/or Mr. Kopp.

16 So you testified earlier about how you
17 didn't remember exactly why you wrote down the
18 comment about retaliation, correct?

19 A Yes.

20 Q And you couldn't remember if it was something
21 that it was your opinion or someone else's,
22 correct?

23 A Yes. I don't remember.

24 Q But if you wrote this comment about
25 retaliation, that means retaliation was an

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1 issue, correct?

2 A I don't know.

3 Q Well, it had to come from somewhere. How would
4 it come up if it weren't a possible issue, sir?

5 MR. SNYDER: Objection.

6 MR. STRANG: Objection.

7 Q You can answer the question.

8 A I'll go back over this a second time.

9 Q I just need you to answer the question.

10 A I don't know whether it was an anecdotal
11 comment made by Ron Kopp or by Mike Esposito or
12 my characterization associated with the case
13 that I referred to that the Chief had -- I
14 don't know the genesis of those words.

15 Q It came up, correct?

16 A Pardon me?

17 Q But it came up, correct?

18 A I don't know that it came up or didn't come up
19 in the context of this case. It may have come
20 up in the context of this case, the Mazzola
21 case. It may have come up in the context of
22 that case that the Chief had referred to. And
23 you're asking me for specific recollection of
24 why those words end up on the paper and I don't
25 know.

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1 Q Okay. So let me ask you this. If you wrote
2 down that retaliation could be a problem, is it
3 correct that that means either someone told you
4 that, one of the two people mentioned in this
5 entry, or you thought of it yourself?

6 MR. STRANG: Objection.

7 MR. SNYDER: Objection.

8 Q You can answer.

9 A I don't know.

10 Q These are your notes on a case you're
11 investigating, correct?

12 A Yes.

13 Q You wrote this, correct?

14 A Yes.

15 Q Okay. So I'm trying to understand the possible
16 ways this idea could have come about, sir. And
17 you've said that Mr. Kopp might have mentioned
18 it, Mr. Esposito might have mentioned it. And
19 is it correct that Chief Kilbane could have
20 mentioned it because he teaches classes that
21 may have implicated a case related to it?

22 MR. SNYDER: Objection.

23 MR. STRANG: Objection.

24 Q Is that correct? Answer the question.

25 A Anyone could have mentioned that and I don't

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1 know why it's there; as I said, if it's an
2 anecdotal comment or if it's an editorial
3 comment, and I don't know how its predicated or
4 why its predicated, and I don't know the
5 genesis of why it's on my paper.

6 Q Okay. So either someone mentioned it or you
7 thought of it, correct?

8 MR. SNYDER: Objection.

9 MR. STRANG: Objection.

10 MS. SAVOIE: How is this an
11 objection?

12 MR. STRANG: He's been asked and
13 answered it 50 times. We've been over this.

14 Q Just answer the question, please.

15 MR. SNYDER: Could you repeat the
16 question, please?

17 MS. SAVOIE: Court reporter,
18 could you please read it back?

19 (Record read.)

20 A Well, I would say those two options are the
21 options that would be there as a possibility,
22 but the other option that you haven't indicated
23 is it may be part and parcel to that case that
24 I repeatedly referred to. And if that is part
25 of the case, what I'm trying to convey, and I

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1 really wish I could convey it in better words,
2 is that it may be part of that case whereby
3 someone said retaliation could be a problem,
4 but it wasn't a problem in that case.

5 Q Okay. Thank you.

6 A I don't know how else to say this, ma'am.

7 Q That's fine, Mr. Evans.

8 So are there reasons that someone would
9 show physiological signs indicative of
10 deception on a polygraph examination other than
11 actually being deceptive?

12 A Well, the reactions, the physiology that's
13 presenting on a polygraph is a result of a
14 stimuli or stimulus, which would be the
15 question and the answer posed.

16 Q Okay. And there are lots of possible stimuli
17 why someone would show these signs of
18 physiological stress, correct?

19 MR. SNYDER: Would you let him
20 finish the answer, please?

21 Q We have some time constraints, so if you can --

22 A I get asked this question in many cases that I
23 testify to in Federal Court, State Court and
24 local courts, and it's a common question and
25 the question requires an answer that is

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thorough.

So during the pre-test interview we eliminate concerns associated with why a person may respond to a question for reasons outside of the normal response, purpose, reason, basis for the physiology that presents. And that type of reaction or response is recorded consistently over several tests for validity and reliability. So we didn't know of anything that could potentially cause a reaction on the test unless that person would convey -- the person being tested would convey that information of some kind.

And this was a pretty straightforward test in that it was a categorical denial of any involvement, period.

Q Is it correct that it's possible for someone to show those signs on a polygraph examination because they have anxiety?

A No. That's not a reason.

Q Aren't there other reasons why someone would show signs of deception on a polygraph exam other than actually being dishonest?

A You said is it possible and I'm going to answer honestly anything is possible. So anything is

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1 possible in regard to that.

2 There's a known error associated with any
3 scientific process, DNA or any type of
4 scientific process, so we try to eliminate the
5 reasons for any error ratio.

6 Q Sure. You're not claiming to be infallible
7 with the polygraph examination, are you?

8 A No. Never have been. Never would.

9 Q Right. And, in fact, the results of polygraph
10 examinations aren't admissible in most courts
11 for those reasons, correct?

12 MR. STRANG: Objection.

13 Q You can answer.

14 A Well, I testified earlier that I testify very
15 frequently in many, many, many cases, and they
16 are admissible in court and I hold the case law
17 on admissibility for a non-stipulated polygraph
18 examination, but under most circumstances those
19 results are stipulated to or admissible, and
20 under Daubert they can be admitted without an
21 agreement stipulation as well.

22 Q On this polygraph for Mr. Mazzola, it showed
23 signs of deception on all of the questions that
24 were asked of him by your associate, correct?

25 A Well, the overall opinion is based on the three

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1 relevant questions. Any one of those relevant
2 questions would cause a failure, however, there
3 were significant signs of deception on all
4 three areas, but any one of those areas if the
5 subject was not being honest, truthful about
6 any one of those three areas, there would be a
7 deceptive opinion rendered.

8 Q Looking to the three specific relevant
9 questions, one of them involved whether
10 Mr. Mazzola actually provided information to
11 the news media, Ed Gallek, correct?

12 A Do you want me to refer -- I can get that. Do
13 you know the Bates stamp? I'll pull the
14 questions up. It would be easier if I did
15 that, I think.

16 All right. The three questions. "Did
17 you provide any information contained in those
18 documents to the media?" The second question
19 was, "Do you know for sure who provided
20 information contained in those documents to the
21 media?" And, "Did you help provide information
22 contained in those documents to the media?"

23 Q And is it correct that according to the test,
24 Mr. Mazzola showed signs indicative of
25 deception on all three of those relevant

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1 questions?

2 A As I said, the one reaction to the one question
3 is going to cause a deceptive opinion, but
4 there were reactions to each relevant question.
5 So the overall opinion is based on those three
6 questions, and I don't know which particular
7 question gave him the most problem or the least
8 problem.

9 Q But he had reactions on all of them?

10 A Let me explain to you why I say that, okay, in
11 order to be clear.

12 If Lieutenant Mazzola provided
13 information himself, he would know for sure who
14 provided the information and he would have
15 acted in that way to help provide the
16 information if he did it himself. However, if
17 he had someone do it for him, he would know for
18 sure who did that and he would aid or abet or
19 assist and help in doing it. And he would also
20 have -- by constructively providing the
21 information, he would have provided it himself,
22 so he could theoretically react to all three
23 questions but literally know for sure who did
24 it or literally do it himself or aid, abet and
25 assist and help having it provided.

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1 So a person can act directly or a person
2 can act through providing the access.

3 Q Okay. So if Ed Gallek said or even testified
4 that Lenny Mazzola did not provide any
5 information to the media, would that cause you
6 to question the findings of the polygraph
7 examination?

8 MR. STRANG: Objection.

9 A Not at all.

10 Q Not at all? Because you think that a reaction
11 to any one of the three would cause a failure
12 overall, correct?

13 A Well, if Lieutenant Mazzola helped, aided or
14 abetted, he would fail the test. If he knew
15 for sure who did it and didn't tell us who did
16 it, he would fail the test. So he wouldn't
17 have to have done it himself in order to fail
18 the test.

19 Q Did you find any information in your
20 investigation indicating who actually did
21 provide the information to the media?

22 A In other words, did Lieutenant Mazzola confess
23 that he did it?

24 Q I'm asking if -- no. Did you find any
25 information that would indicate who was the

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1 person to provide information to the media?

2 A Circumstantially there was a lot of information
3 that suggested that there was involvement on
4 his part, but circumstantially is not
5 definitively.

6 Q I'm asking about other people, sir, because
7 Mr. Gallek said that Mr. Mazzola was not the
8 source.

9 MR. STRANG: Objection.

10 Q So do you have information about who was the
11 source?

12 A Let me go to the -- without pulling a document,
13 let me go to something that was interesting in
14 regard to motive.

15 There were few people that had motive and
16 there were few people that had access to
17 certain documents and, in this case, Lieutenant
18 Mazzola had access to certain documents. And
19 based on the interviews that I did, including
20 the Chief of Detectives for the City of
21 Independence, there were a couple of documents
22 that that Chief of Detectives felt narrowed the
23 field of potential people that could be
24 involved in this. I'm referring to Lieutenant
25 Wilson.

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1 And so if I look at my notes, I could be
2 a little more clear on that. But by virtue of
3 Lieutenant Mazzola's interview -- could you
4 give me a moment and I'll pull that out? It
5 would be easier than me trying to speculate
6 on --

7 Q We can take a break for a second if you want.

8 A No. I don't need a break. It's okay.

9 This is the initial interview of
10 Lieutenant Mazzola. And I'm referring to
11 Bates stamp 214, 213 -- 213, 214 and 215. And
12 I asked Lieutenant Mazzola during that
13 interview who had access to his pre-D notice
14 and his answer was, "Me", him, himself.

15 And I asked him about the pre-D notice
16 regarding Dalton I think also. And I
17 interviewed Dalton by then and Dalton was very
18 upset about the fact that his pre-D notice got
19 out to the general public. And I asked
20 Lieutenant Mazzola to narrow the field of
21 people on Bates stamp 216 as to who he believed
22 distributed his pre-D notice and I asked him
23 about the possibilities that I knew that
24 existed at that point, being the Chief,
25 Letecia, Lieutenant Wilson, his attorney,

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1 Bob Phillips.

2 And in 5 I said, "Could it be anybody
3 else?" And he said, "I did not do it." And
4 there was no other reference to anyone and that
5 didn't change between then when I interviewed
6 him and the time when he came in for his
7 polygraph in terms of the possibilities except
8 for he was unclear and unsure as to whether or
9 not the IT department kept a pdf on that pre-D
10 discipline or not.

11 So he eliminated the possibilities, or at
12 least narrowed them down to the Chief, Letecia,
13 Lieutenant Wilson, Bob Phillips and himself,
14 though he denied that he did it. We all know
15 that.

16 So that's when Sara Liva brought up the
17 possibility, if you look down further on this,
18 I think it has to do with some other
19 speculation that she made as being another
20 possibility having to do with that IT pdf.

21 And so where I'm going with that is the
22 possibilities were pretty narrow at that point
23 and those possibilities didn't expand by the
24 time March 20 came around for the polygraph, so
25 that's the reason that these polygraph

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1 questions were present during the polygraph;
2 "Do you know who did it? Did you help do it?"
3 And, "Did you do it?" They're very basic
4 questions to try to resolve a case like this.

5 MS. SAVOIE: Okay. Thank you,
6 Mr. Evans. Those are all the questions I have
7 for you.

8 MR. STRANG: Mr. Evans, this is
9 Steve Strang for the City. I'm going to ask
10 you a couple questions.

11 Is it okay if we take ten minutes, get
12 up, stretch my legs, let me gather a document
13 or two? I shouldn't be that long with you.

14 THE WITNESS: Okay.

15 (Recess taken.)

16 EXAMINATION OF BILL EVANS

17 BY-MR.STRANG:

18 Q Mr. Evans, I'm going to kind of bounce around a
19 little bit because a lot of the stuff that I
20 was going to ask you got covered.

21 I first want to direct your attention to
22 Plaintiff's Exhibit 3, which is this I-Team
23 e-mail you were shown. Let me know when you
24 have it in front of you.

25 MS. SAVOIE: Object to the form
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1 there. E-mail?

2 MR. STRANG: Well, it came across
3 as an e-mail. It's an article.

4 Q Do you have it in front of you?

5 MS. SAVOIE: It's a pdf.

6 A Yes. Mr. Snyder has to bring his computer over
7 to me. He's pulling that up now.

8 Q Let me know when you have it.

9 A Okay.

10 Q Are you still waiting for it, Mr. Evans?

11 A Yes. Mr. Snyder is having difficulty bringing
12 it back up.

13 Okay. We have it now.

14 Q Great.

15 Mr. Evans, are you looking at Plaintiff's
16 Exhibit 3 right now?

17 A "I-Team lie detector test given to local police
18 officer over traffic tickets." Is that the one
19 you're referring to?

20 Q I am. Can you tell me the date on that
21 document, the date of the story?

22 A It says May 11, 2020.

23 Q It says under the RE line on page 2, do you see
24 that it says, "May 3, 2019. Updated May 3,
25 2019."

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Do you see that?

A Posted May 3, 2019 at 7:43 p.m. Updated May 3, 2019, 7:43 p.m.

Q Okay. May 3, 2019 was after your interview with Leonard Mazzola, correct?

A Yes.

Q It was after the polygraph of Lenny Mazzola, correct?

A Yes.

Q And it was approximately a month after Lenny Mazzola quit, correct?

A I don't know when he quit, but I know it was within a week of the polygraph, I believe or thereabouts, so it would have been probably before April.

Q So, in any event, it would have been approximately a month before this story that we're looking at came out, correct?

A Yes.

Q Okay. And by that point your investigation, you had essentially finished your investigation, correct?

A Yes.

Q And some of these questions are pretty self evident, but I'm going to ask them anyway.

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1 Mr. Evans, you don't know Ed Gallek
2 personally, correct?

3 A I don't think I've ever met him. I've seen him
4 on TV.

5 Q You were not a contributor to this article,
6 correct?

7 A No.

8 Q Ed Gallek didn't talk about this article to
9 you? He never has at any point, correct?

10 A No.

11 Q Ed Gallek hasn't talked to you about any of the
12 contents of this article, would that be
13 correct?

14 A He called me the one time for comment and I
15 don't think there had been any conversation
16 associated with this particular article at all,
17 in fact, I don't remember what the content of
18 his call was about at this point. I just said,
19 "No comment."

20 Q Is this deposition the first time you've seen
21 this article?

22 A As I recall, yes.

23 Q Have you ever discussed this article with
24 anyone from the City of Independence?

25 A As I had mentioned earlier, this couldn't have

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1 been what Lieutenant Mazzola was referring to
2 because his polygraph was way before this. I
3 don't recall ever seeing this article before
4 today.

5 Q Lenny Mazzola never referenced this article to
6 you obviously during this investigation,
7 correct?

8 A No. Because the last time I talked to
9 Lieutenant Mazzola would have been the 20th of
10 March.

11 Q In your investigation did Leonard Mazzola ever
12 present you with any sort of statement from
13 Ed Gallek exonerating himself?

14 A No.

15 Q Did Leonard Mazzola ever give you any sort of
16 recording, any telephone call recording from
17 Ed Gallek exonerating Leonard Mazzola?

18 A No.

19 Q Are you aware that Leonard Mazzola was
20 recording conversations with his superiors for
21 approximately a year before he quit?

22 MS. SAVOIE: Objection.

23 A No.

24 Q Would that surprise you?

25 A Well, they wear a body cam and police --

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1 nowadays police work is common with the body
2 camera. I don't know what kind of recording
3 you would be referring to.

4 Q Did he ever mention to you that he was
5 recording conversations with his superiors?

6 A No, not that I recall.

7 Q Do you think that's an honest thing to do?

8 MS. SAVOIE: Object to the form.

9 A Well, for accuracy and note taking I guess it's
10 okay.

11 Q Do you think that that's an honest thing to do
12 when the other person does not know that you're
13 recording the conversation?

14 A Well, once again, for accuracy and note taking,
15 depends on the context in which it's taken in.

16 Q But during your investigation he never pointed
17 to any audio recordings that he said would
18 exonerate him, correct?

19 A No.

20 Q And opposing counsel referenced some phone call
21 that Lenny Mazzola had with Ed Gallek wherein
22 Ed Gallek apparently exonerated Lenny. And
23 just to be clear, you've never heard anything
24 like that, correct?

25 A No.

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Bill Evans

1 Q And do you know whether any such phone call
2 exists?

3 A No. I don't know.

4 Q Do you know if reporters typically talk about
5 who their sources are?

6 A They generally do not talk about sources.

7 Q And generally a reporter will not confirm or
8 deny who a particular source is, is that
9 correct in your experience?

10 A In my experience that's correct, yes.

11 Q And looking at this article which is
12 Plaintiff's Exhibit 3, I'm going to point you
13 to the paragraph that you were asked about at
14 great length during opposing counsel's
15 examination on page 3 of the pdf that starts,
16 "During the internal investigation, one police
17 supervisor retired."

18 Do you see that?

19 A Yes.

20 Q It says, "Multiple sources say he left under
21 pressure. However, he never supplied any
22 information to the I-Team."

23 Do you see that?

24 A Yes.

25 Q Do you have any idea why Mr. Gallek chose to

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1 put a period between "pressure" and "however"?

2 A I have no idea.

3 Q It's not something he ever talked to you about?

4 A No.

5 Q Do you know who the multiple sources are in
6 this article?

7 A I have no idea.

8 Q Could those multiple sources have been -- one
9 of them possibly have been Lenny Mazzola?

10 MS. SAVOIE: Object to the form.

11 A Yes. Anything is possible.

12 Q Could one of those multiple sources possibly
13 have been Lenny Mazzola's legal counsel?

14 MS. SAVOIE: Object to the form.

15 A Yes. Anything is possible.

16 Q If anything is possible, and we don't know that
17 because the article doesn't tell us, right?

18 A Correct.

19 Q I want to go through the polygraph results with
20 you and that's starting on Evans 001. Do you
21 see that? Do you have that in front of you?

22 Do you want me to give you a second?

23 A No. I have it in front of me now.

24 Q Thank you.

25 So I'm referring to -- and just so we are

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1 referring to the same thing, when I'm talking
2 about a report, can you kind of thumb through
3 this and let me know -- it looks to me like the
4 report would be Evans 01 to Evans 02, but it's
5 possible that there's a lot of documents behind
6 it that I don't quite understand, some of these
7 graphs and questions.

8 Can you just look through this and tell
9 me where the report actually stops?

10 A Well, if you look at the bottom of page 2 of
11 the report, it indicates, "Enclosures; OSS-3,
12 algorithm report, ESSM score sheet." And then
13 the graphs themselves typically aren't part of
14 the report, but OSS-3 is an Objective Scoring
15 System version 3, and that's not developed by
16 us.

17 Our hand scoring is one way of
18 interpreting the results, as I mentioned
19 earlier when being questioned earlier. That
20 takes some time to develop and evaluate. That
21 hand scoring was deceptive, but then the
22 Objective Scoring System evaluates the data,
23 the physiological data on its own, and produces
24 a result.

25 And that result is on Bates stamps

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1 3, 4 and 5 with a P value of .001, translating
2 to the probability that the result was from a
3 truthful person would be 1 in 1,000. Reversing
4 that, the probability of deception would be
5 999 out of 1,000.

6 And then the other enclosure would be
7 006. And 006 would be, once again, an
8 algorithm scoring where the algorithm evaluates
9 the data. And that data is translated in a
10 little different form with a grand total of a
11 minus 40. As I recall, the hand scoring was
12 very, very consistent with that algorithmic
13 scoring in a negative number.

14 And negative 40 is on the scale very
15 deceptive, on the scale on hand scoring, but on
16 the scale of the Empirical Scoring System,
17 which is another form of scoring this data,
18 ESS, the scoring odds are 991 to 1 that it's
19 produced by a deceptive person.

20 So the algorithms don't know who is being
21 tested and they don't care about the questions,
22 verbiage or content. The only thing the
23 algorithm evaluates is physiological data, and
24 the physiological data comports with that of a
25 deceptive individual in those odds that are

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1 generated by the algorithm.

2 Q And to be clear, in this particular case the
3 data I think is the word you used, revealed
4 that Leonard Mazzola was a deceptive person,
5 correct?

6 A The physiological information that was
7 evaluated, whether it be through hand scoring
8 or whether it be through algorithm, was
9 translated into a deceptive opinion.

10 Q And can you tell me the odds or the level of
11 certainty that you have in those results?

12 A Based on the meta-analysis studies that have
13 been done over time, the physiological
14 responses are consistent with deception at
15 about for an average examiner in an average
16 application of polygraph about 93 percent,
17 90 to 93 percent of the time for an average
18 examiner across the board.

19 Q Were the results in this case unusually
20 certain?

21 A They're very clear. The higher the numbers,
22 the more clear the results are in terms of
23 confidence intervals. When you combine
24 different scoring algorithms with hand scoring,
25 the confidence intervals go up.

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1 I mean a better way of explaining that is
2 if you have one form of evidence suggesting
3 that a person is involved in a crime, you have
4 a confidence interval that's multiplied and
5 becomes more certain when you have two forms of
6 evidence or three forms of evidence, it becomes
7 even more certain in a confidence interval
8 evaluation.

9 So from a polygraph standpoint, when
10 there are different ways of interpreting the
11 same data, which is what we have here, we've
12 got a hand scoring coupled with two separate
13 algorithms, the confidence in that opinion of
14 deception goes up.

15 Q And up to what? What were the mathematical
16 conclusions in this?

17 A Well, there is nothing more -- in terms of
18 these algorithms, there is nothing more certain
19 relative to the bandwidth -- I'll use that term
20 loosely -- the bandwidth of the deceptive
21 opinion doesn't go beyond 1,000, and this is
22 999 out of 1,000. 99 percent on the odds of
23 significant reactions indicative of deception
24 on the Empirical Scoring System, and the
25 Objective Scoring System, the P value there is

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1 .001.

2 Q And before this report was generated, I
3 understand that the results were verbally
4 conveyed to the City of Independence, is that
5 correct?

6 A Yes.

7 Q By you or by the gentleman who took this,
8 Mr. Butler?

9 A I think that was by me.

10 Q And can you recall what you conveyed to the
11 City of Independence after the polygraph?

12 A No. I can't recall specifically what I
13 conveyed other than it was a deceptive opinion.

14 Q And did you communicate to the City of
15 Independence how certain you were that the
16 results were deceptive?

17 A Well, I mean I think I probably would have
18 conveyed based on what I would have known at
19 that point that they were very clear in terms
20 of deception.

21 Q You mentioned before when you were asked why a
22 report wasn't generated at the time -- well,
23 let me ask you this again. Why wasn't the
24 report produced at the time back in spring of
25 2019?

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1 A Well, one reason was because there was no
2 request for the report at that point because
3 Lieutenant Mazzola resigned his position, so
4 there was no need for a report.

5 I wasn't going to create a report on
6 anything that I did, per se, in order to be
7 able to work on the case. I mean the available
8 resources on a particular case could be divided
9 into work effort or into report creating effort
10 or both. And there were I don't know how many
11 individuals to be interviewed, seven
12 individuals maybe, something like that.

13 There was a lot of work involved in doing
14 the case and the allocated dollars at that
15 point, I was trying to be considerate of how I
16 put my time in and where I put my time into
17 work effort. So, consequently, creating a
18 report wasn't a priority, not that it wasn't a
19 priority on my part. I think the City didn't
20 see a need for the report. It became a moot
21 point when he offered his resignation. And
22 eventually --

23 Q I'm sorry. I cut you off. And eventually
24 what?

25 A I think it became a moot point subsequent to
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1 the resignation.

2 Q You mentioned that you heard several later that
3 the City did want a written report because
4 there were allegations that Mr. Mazzola
5 actually did pass the polygraph test. Am I
6 correct?

7 A Yes.

8 Q I'm going to read a couple statements and I
9 want to ask you whether those statements are
10 true.

11 "Lieutenant Mazzola again answered the
12 questions fully and truthfully."

13 A I'm sorry. You broke up. What was that again,
14 please?

15 Q "Lieutenant Mazzola again answered the
16 questions fully and truthfully on the polygraph
17 test."

18 MS. SAVOIE: Object to the form.

19 A Are you referring to the complaint that was
20 filed?

21 Q I am referring to the complaint not that was
22 filed, but that was originally sent to the
23 City. I'm just going to read you a couple
24 statements and ask whether they're true
25 statements or not.

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1 A Okay.

2 Q "Lieutenant Mazzola again answered the
3 questions fully and truthfully."

4 MS. SAVOIE: Object to the form.

5 A Okay. And your question would be?

6 Q Did Lenny Mazzola answer the questions on the
7 polygraph truthfully?

8 MS. SAVOIE: Object to the form.

9 You can answer.

10 A Well, as I testified, there was deception
11 indicated in regard to those three areas of
12 questions asked on the polygraph, so in the
13 forensic opinion world, no.

14 Q The next is, "Lieutenant Mazzola was told also
15 that he had failed the polygraph, but that was
16 not true and Defendants continued to insist
17 that Lieutenant Mazzola was to blame."

18 Would that be a true statement that
19 Leonard Mazzola failed the polygraph?

20 A Yes.

21 Q And the written report that you generated
22 confirmed that Leonard Mazzola failed the
23 polygraph, correct?

24 A Yes.

25 Q And before you generated this PolyTech report

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1 dated December 20, 2019, there was no report
2 specifically stating that Leonard Mazzola
3 failed the polygraph, correct?

4 A Correct.

5 Q I'm going to ask you a couple questions about
6 some of these documents in this report. And
7 I'm specifically looking at Evans 007.

8 A Okay. I have it.

9 Q Can you tell me what that document is?

10 A This is our waiver release form that's signed
11 before an examination is conducted.

12 Q Before a polygraph examination?

13 A Yes.

14 Q And I see it's marked up. Do you see that?

15 A Yes.

16 Q Can you tell me who made those revisions to the
17 polygraph examination waiver?

18 A Sara Liva, the lawyer for the Union.

19 Q And Sara Liva was actually Lenny Mazzola's
20 lawyer, correct?

21 MS. SAVOIE: Object to the form.

22 A Yes.

23 Q She was representing him?

24 MS. SAVOIE: Object to the form.

25 Q Correct?

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1 A Yes.

2 Q I'm going to direct your attention to Evans 76.

3 A Okay.

4 Q This is dated March 19, 2019 sent via e-mail to
5 Bill Evans, and apparently it's from Sara Liva,
6 L I V A.

7 Did you actually receive this letter via
8 e-mail?

9 A Yes.

10 Q I'm going to direct your attention to the first
11 paragraph, specifically the third sentence. It
12 states, "Please be informed that I am
13 Lieutenant Mazzola's legal and union
14 representative and that he has exercised his
15 right to union representation at all
16 investigatory interviews regarding this
17 matter."

18 Did I read that correctly?

19 A Yes.

20 Q Was that your understanding, that Leonard
21 Mazzola had a legal and a union representative
22 guiding him through this process?

23 A Yes. There were two actually, Bob Phillips and
24 Sara Liva worked for him, Bob Phillips, and she
25 consulted with Bob Phillips during the

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1 pendency.

2 Q And I think you talked before about some
3 discussions about a polygraph examination with
4 Sara Liva?

5 A Yes.

6 Q And what specifically was discussed with
7 Sara Liva about a polygraph examination?

8 A Oh, boy. The only thing that I recall would
9 have been -- well, the first thing that I
10 recall would have been during the interview the
11 day of interviews about polygraph when I was
12 asking the interviewees, the people that I was
13 interviewing if they would take a polygraph and
14 that topic came up, that she looked at the CBA
15 and told me that it was silent on that topic,
16 Sara Liva.

17 After that I think the only other thing
18 that we probably would have talked about would
19 have been when there were polygraphs that were
20 being scheduled, a polygraph being scheduled in
21 regards to this case before you. Beyond that I
22 can't remember any other conversations if there
23 were any.

24 Q She never told you you don't have the right to
25 subject Lenny Mazzola to a polygraph or

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1 anything like that?

2 A No.

3 Q Did they ever instigate any sort of
4 administrative or legal challenge to you
5 putting Lenny Mazzola through a polygraph?

6 MS. SAVOIE: Object to the form.

7 A No. In fact, Bates stamp 007, those
8 corrections on the right-hand side would be her
9 initials, and this was the superseding document
10 of any information that was discussed about
11 polygraph or reference to conducting this
12 examination. And she witnessed and signed next
13 to Lenny Mazzola's name down toward the bottom.

14 Q So to your understanding, that's Sara Liva's
15 signature at the bottom?

16 A No. I know that's her signature because we --
17 no. I'm positive that's her signature.

18 Q And the signature next to it, is that Lenny
19 Mazzola's signature?

20 A Yes.

21 Q Did Lenny Mazzola ever object to taking a
22 polygraph examination?

23 A Yes.

24 Q What did he say?

25 A Well, when I asked him during the first

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1 interview if he would take the polygraph, he
2 said no.

3 Q And when were you advised that he would, in
4 fact, take the polygraph?

5 A Well, he had to be ordered to take the
6 polygraph by the Chief.

7 Q Do you know when that happened?

8 A No. I really don't know when that happened.

9 Q Were you present for that discussion?

10 A When he was ordered to take the exam?

11 Q Correct.

12 A No. I think there was a directive of some kind
13 that went out by the Chief because the Chief
14 knew that he wasn't going to be taking a
15 polygraph after the first interview and he
16 didn't want to take a polygraph, and I think
17 that's why he had to be ordered to take it, but
18 I really don't remember any other details
19 associated with how that developed.

20 Q And this document, Evans 00 7, this was signed
21 by Lenny Mazzola and his attorney the day of
22 the polygraph, correct?

23 A Yes.

24 Q Were you retained to interview witnesses or to
25 administer a polygraph examination?

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1 A Well, I guess both, but I didn't want to do the
2 polygraph because I had already done the
3 interviews.

4 Q Well, whose idea was it to administer the
5 polygraph?

6 A It would have been probably my suggestion that
7 that's the next step at that point.

8 Q Do you specifically recall suggesting a
9 polygraph examination in this case?

10 A I think so, yeah. I probably suggested that
11 that was probably the next step in this case
12 would be a polygraph at that point.

13 Q And why did you believe that the next step in
14 this case would be a polygraph?

15 A Well, because as I testified earlier, there
16 were a lot of common denominators that seemed
17 to be developing in reference to information
18 that got out of the police -- from a
19 proprietary perspective outside of the
20 communications officer, the appointed
21 communications officer without that
22 authorization.

23 So there was a denial by Lieutenant
24 Mazzola that he was involved, and the next
25 logical step based on those connections of the

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1 common denominators associated with a public
2 records request and so forth, it just seemed to
3 be the next logical step. It's not unusual to
4 ask for polygraph examinations during
5 investigations.

6 Q And you thought at this point that Leonard
7 Mazzola was being deceptive, would that be
8 accurate?

9 A Based on that polygraph examination.

10 Q No. Before the polygraph; after you
11 interviewed him, before the polygraph?

12 MS. SAVOIE: Object to the form.

13 A Before the polygraph there seemed to be reasons
14 why the common denominators were lining up. I
15 testified to this earlier.

16 Some of those documents were in the
17 hands, by his own admission, of himself in a
18 very protected way. In particular, it was the
19 pre-disciplinary letter that was given to him
20 that didn't have any copies made of it beyond
21 the one that he had gotten. And if there was
22 anyone that made a copy of it, it would have
23 been only him. And he didn't recall any copies
24 that he had made for anybody, so that would
25 have been the only document that was -- that

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1 document was in his possession, kept in his
2 possession within that three-ring binder that I
3 saw the day of the polygraph.

4 So in asking who could have obtained that
5 document, he said that his binder was in his
6 care, custody and control at the time. He took
7 it home with him as well. I think that's
8 probably, if I'm not mistaken, it's been a long
9 time since I revisited that polygraph
10 interview, but I think that was on the
11 polygraph interview that we supplied, the
12 recorded portion of that polygraph interview.

13 And that said to me that there had to be
14 someone that got into his office to obtain that
15 letter, that pre-disciplinary letter, left with
16 that letter, went to copy that letter and then
17 snuck it back to the same position in his
18 office or the three-ring binder or both in
19 order for there to be another person to have
20 had that in their possession to disseminate it
21 to the news media. I mean at that time that
22 was the conclusion that I was making based on
23 that one document.

24 And then coupled with that would be the
25 Brian Dalton pre-disciplinary notice and

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1 write-up. And, as I recall, that was also --
2 I'm almost certain of this -- that was also
3 contained in that three-ring binder and that
4 had to get to the media.

5 Plus, on top of that, there were other
6 documents with verbatim similarities and maybe
7 even quotations or mistakes or something like
8 that in regard to how the sentence was
9 structured that appeared then in public records
10 request. And, actually, there were some things
11 that even appeared to me that was almost a cut
12 and paste of information that came out of these
13 documents that were contained proprietorially
14 within the City that ended up in the public
15 records request.

16 So when I alluded to earlier the
17 circumstantial information, that's the
18 circumstantial information that I was referring
19 to. And knowing that if Lieutenant Mazzola
20 knew who did this and was protecting them, then
21 that was something that was important to know
22 if it caused him, Lieutenant Mazzola, to be
23 exonerated by direct involvement in delivering
24 this to the news media, that was something that
25 I was very interested in determining if he

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1 simply knew who did this for a fact. But he
2 said he had no idea who did it, he didn't know
3 of anyone who did it, he didn't do it and he
4 didn't aid, abet and assist in doing it.

5 Q And I think you mentioned the Dalton reprimand.
6 Based on your interview, do you think that
7 Patrolman Brian Dalton was embarrassed about
8 that reprimand?

9 A He was not only embarrassed about it, but he
10 was angry to find out that it was released. He
11 didn't want anyone laundering his wash to the
12 public.

13 Q And did you believe -- I'm sorry.

14 A And he was angry that that had occurred and got
15 out. So he was very upset during the interview
16 on the 20th or, excuse me, on the 13th.

17 Q And based on that did you come to any
18 conclusions as to whether you felt that
19 Patrolman Dalton would have been the one to
20 leak the Dalton reprimand?

21 MS. SAVOIE: Object to the form.

22 A Well, I noted shock and awe when he knew that
23 it had gotten out. I mean he was just very
24 angry about the fact that it got out. He was
25 very angry about who might have done it. He

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1 wanted to get to the bottom of it.

2 In everybody's respect -- and I thought
3 that and I got the same sentiment from about
4 everybody that I interviewed, that they thought
5 that it was proprietary information, they
6 thought that it shouldn't have been released
7 and it was causing discord within the police
8 department.

9 And there was one person I interviewed, I
10 can't remember who it was, that said if they
11 did something wrong, you know, they would take
12 it on the face as a lump, but I don't remember
13 who that was, and they would accept the fact
14 that it had gotten out and they would have
15 accepted they did something wrong in terms of
16 it being disseminated. But out of the rest of
17 them, everyone was upset that it had gotten
18 out. You know, they took issue of it being
19 released outside of the proprietary confines of
20 the department.

21 Q What, if any, relevance did motive have in your
22 investigation?

23 A Well, that's a basic -- you know, the means,
24 the motive, the opportunity, that's always
25 basic investigatory A, B, C's. Then you go to

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1 the who, what, why, when and how and you try to
2 cross those T's and dot those I's as best you
3 can.

4 Q In your investigation did you come up with who
5 may have had the motive to provide these
6 documents to Ed Gallek?

7 A Well, that was part of what I asked to
8 everybody that I interviewed, you know, who had
9 the means.

10 The means would be --and I talked about
11 this earlier -- the means, the person that had
12 access to it, in other words, would be the
13 HR Director, the Chief, the person involved in
14 receiving the discipline, they would all have
15 access to that. So that would be the means.

16 The opportunity, certain people had
17 opportunity to do it.

18 And the motive, certain people motive.

19 But on the flip-side of that, certain
20 people didn't have the means, didn't have the
21 opportunity and didn't have the motive.

22 So I guess in quantifying that the
23 question is did Letecia, I think her last name
24 is Linker, have the means? Yeah, she probably
25 had access to everything. Did she have the

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1 opportunity? Well, she had the opportunity
2 probably. But did she have a motive to bring
3 embarrassment upon the department, the City and
4 the Chief? I didn't see her high on the list.

5 Then the other person would be the
6 Chief of Police. Did he have the means, did he
7 have the motive, did he have the opportunity?
8 Well, I wasn't quite clear on how he would have
9 the motive to bring embarrassment upon himself
10 or the police department or the City.

11 So, you know, I went through that list
12 and I had to apply common sense. And there
13 were a couple of those interviewees that had
14 alluded to Lieutenant Mazzola had been in line
15 for the Chief of Police position at some point.
16 I mean the departmental politics didn't mean
17 anything to me one way or another, but there
18 was one person that said theoretically anyone
19 within the police department could have gotten
20 that Police Chief position, but in reality,
21 it's a different story.

22 Theoretically anybody in the police
23 department could have had the Chief position I
24 guess because of the way the Civil Service
25 worked up there, but I don't know that to be

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1 the case or fact. I'm just telling you what I
2 was told. And so that was another item that
3 was out there.

4 But then the traffic citation enforcement
5 aspect of this, the Chief had indicated to me
6 that there were a couple of people that were
7 upset about the traffic enforcement aspect of
8 writing these citations. So, you know, all of
9 that stuff at that point in time is a dynamic
10 that you take into consideration, at least I
11 did.

12 Q And did you come to any conclusion as to who
13 had the means, the opportunity and the motive?

14 A Well, on the list was Lieutenant Mazzola, and
15 so he was asked then to take the polygraph. If
16 he cleared his polygraph, then we would have
17 moved onto another option.

18 Q How many other options did you have at that
19 point, if any?

20 A I don't know. We would probably reevaluate the
21 situation at that point just like anything
22 else. I mean if it's an investigation
23 involving any type of incident, you know, you
24 look at various options, you identify whether
25 or not those options are practical or not, and

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1 if they are practical, then you eliminate the
2 option or you isolate the option.

3 So in this case we didn't get beyond
4 conducting the polygraph of Lieutenant Mazzola.

5 Q Did any of the other officers interviewed
6 indicate that they would be willing to take a
7 polygraph?

8 A Yes.

9 Q Who?

10 A Well, I think they all did. I know Chuck
11 Wilson did. I don't know. I think several of
12 them did, if not all of them. I didn't have
13 anybody refuse to take the polygraph. I know
14 that.

15 Q Well, with the exception of Mr. Mazzola,
16 correct?

17 A Yes, except Lieutenant Mazzola.

18 Q I'm going to direct your attention to Evans 86.

19 A 86?

20 Q Yeah.

21 A Okay.

22 Q Is that the Dalton reprimand that we were
23 talking about earlier?

24 A Yes.

25 Q The date on that is January 7, 2019. Do you

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1 see that?

2 A Yes.

3 Q Do you have any understanding as to how this
4 document was generated?

5 A I'm not quite clear on your question. Do you
6 mean generated within the department?

7 Q Yeah. Who wrote this?

8 A Apparently it was Lieutenant Mazzola, but I
9 don't know for a fact who wrote it, who
10 actually drafted it.

11 Q After it was signed do you see at the bottom of
12 it next to Patrolman Brian Dalton it says,
13 "Refused. No just cause!"?

14 A Yes.

15 Q And it goes on a bit and then he eventually
16 signs the thing at the bottom.

17 Do you know where this document was
18 stored or kept after Patrolman Dalton signed
19 it?

20 A Are you referring within the department?

21 Q Correct.

22 A No.

23 Q Was it kept with Mr. Mazzola? Did he have
24 custody of this?

25 A Boy, I would have to reference my notes, but

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1 yes, he had custody of this I'm almost certain.

2 Q When I say, "This", I mean the hard copy of the
3 document?

4 A Yes. Because he told me it was in his
5 three-ring binder. I recall that during the
6 polygraph examination pre-interview.

7 Q Do you know when and if he ever gave a hard
8 copy of that document or an electronic copy of
9 that document to the Chief?

10 A I may have at one time, but I don't recall
11 right now.

12 Q Do you know when this document, Evans 86, was
13 given to you?

14 A This would have been given to me by the
15 Chief of Police at some point during the
16 pendency of this investigation.

17 Q Do you know when during the investigation?

18 A I can't say emphatically I know exactly when,
19 but I believe it would have been during the
20 early part of the investigation.

21 Q The document is dated January 7, 2019 at the
22 top.

23 Do you see that?

24 A Yes.

25 Q This document was not given to you on

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1 January 7, 2019, correct?

2 A Oh, no. No, definitely not.

3 Q And based on your notes which I'm looking at,
4 Evans 103, the first notation in your activity
5 log is on January 31, 2019, is that correct?

6 A Well, I'm looking for -- I've got a lot of
7 paperwork here on this table, but we're looking
8 at my activity log, all right. And you said it
9 was January 31, yes.

10 Q Do you know if Evans 86 was given to you on
11 January 31, 2019?

12 A I really don't know. It might have been shown
13 to me then potentially. I don't remember when
14 I got that document.

15 Q But the earliest it even possibly could have
16 been was January 31, 2019, correct?

17 A Yes.

18 Q And even then you're not sure if it was given
19 to you on January 31, 2019, correct?

20 A I don't think it would have been received -- I
21 see here that I received some information from
22 Chief Kilbane, but it doesn't say what, on
23 February 8.

24 If I recall that meeting on the 31st, it
25 was just an informational meeting and I took

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1 some information down, some notes, and that was
2 it.

3 I'm going to go back to what I said
4 earlier. I don't remember when I would have
5 gotten that Dalton -- a copy of that Dalton
6 discipline and pre-D notice.

7 Q Thank you.

8 I'm going to refer you to Evans 73.

9 A It's a blue form, yes.

10 Q Can you tell me what this form is?

11 A Biographical history form filled out during the
12 pre-test interview.

13 Q And it's actually the second page of what
14 appears to start on Evans 72, would you agree
15 with that?

16 A Yes.

17 Q Can you tell me what this form is and what it's
18 used for?

19 A It's used to get a background from a physical
20 standpoint and a psychological standpoint and
21 used to adjust parameters for the polygraph.
22 It's kind of like when we go and see a doctor,
23 they ask you to fill out a history, a
24 biographical history form.

25 Q Who filled out this document?

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1 A Ken Butler, the polygraph examiner.

2 Q Do you know what typically Ken Butler would
3 have based these answers on? Typically he
4 would have asked these questions to Lenny
5 Mazzola?

6 A Well, he asked these questions during the
7 pre-test interview and it's recording and it
8 would be before any test questions were asked
9 and it would be during the time that he was
10 collecting generalized information.

11 Q Were you physically present when he asked these
12 questions?

13 A No. I was in the room next door which is a
14 conference room watching and listening to the
15 polygraph examination via closed circuit
16 television.

17 Q But you are a is the word polygrapher?

18 A Yeah. Polygraph examiner, polygraphist.

19 Q And you're familiar with this form, correct?

20 A Yes, I am.

21 Q I'm going to refer you to the second page of
22 this form under 12.

23 Do you see that?

24 A The copy is very hard to read, but I have the
25 original, I believe, here. That might be

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1 easier.

2 Q Well, the numbers aren't important. I can
3 start with the text. Perhaps that might be a
4 little bit easier.

5 A Okay.

6 Q It starts with, "Anything physically wrong past
7 two years?"

8 Do you see that?

9 A Yes. I see that.

10 Q Can you read the response?

11 A "No."

12 Q The next says, "How physical condition right
13 now/hours slept last night/average/night."

14 Do you see that?

15 A Yes, I do.

16 Q Can you read what it says under, "How physical
17 condition right now?"

18 A "Good."

19 Q Can you read under I think HRS. I'm assuming
20 it's short for hours?

21 A Yes.

22 Q "Hours sleep last night?" How many is that?

23 A It says, "Five."

24 Q And based on familiarity with Mr. Butler's
25 technique, would he have received these

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1 responses from Mr. Mazzola?

2 A Yes. He got them from Mr. Mazzola.

3 Q And what is that field, "Average/night"? Do
4 you know what that means?

5 A That's how many hours he averages a night, that
6 he averages a night, how many hours a sleep do
7 you get on the average night.

8 Q It looks like -- can you find anything on this
9 Evans 72 to Evans 73 where Lenny Mazzola
10 suggests that he is physically or mentally
11 incapable of taking a polygraph test that day?

12 A No.

13 Q And as a polygraph examiner do you account for
14 someone being nervous to take the test?

15 A Yes.

16 Q Would it be fair to say that most people taking
17 a polygraph examination are nervous about
18 taking the test?

19 A Yes.

20 Q And so are the nerves or trepidation someone
21 feels upon taking a polygraph examination, is
22 that kind of based into your analysis and
23 results?

24 A Yes. There's an acquaintance test that's
25 conducted before any relevant tests are

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1 conducted. I don't remember how many tests
2 were conducted on Lieutenant Mazzola, but I
3 know there were at least three.

4 I know also that the -- it's on the
5 report, I believe. Yeah. There was a
6 polygraph sensitivity test used to assess
7 reaction capability. It looks like there were
8 five relevant tests conducted, six actually in
9 total when you add the sensitivity test used to
10 assess reaction capability. And that test is
11 done to make sure that not only the instrument
12 is recording properly, but also that the person
13 is responding properly and clear reactions are
14 present when the person tells a lie or tells
15 the truth, because the person is instructed to
16 tell a lie during that test as well as tell the
17 truth.

18 Q And that was specifically done with
19 Mr. Mazzola, correct?

20 A Yes.

21 Q And, of course, you're aware that Mr. Mazzola
22 is a police officer, or at least was a police
23 officer, correct?

24 A Yes.

25 Q Being a police officer is a stressful job,

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1 would you agree with me?

2 A Yes.

3 Q You're life is on the line during a shift,
4 correct?

5 MS. SAVOIE: Object to the form.

6 A Yes.

7 Q Would I be correct in saying as a patrol
8 officer you have to have I suppose I'll say
9 nerves of steel to get through a shift? Would
10 you agree with that?

11 MS. SAVOIE: Object to the form.

12 A Well, it depends on your assignment. In patrol
13 you never know what's going to be around the
14 next corner.

15 Q Potentially life or death every shift, correct?

16 MS. SAVOIE: Object to the form.

17 A Yes.

18 Q Can you look at Evans 19?

19 A Okay. I have it.

20 Q What is that document?

21 A These are the questions that are asked during
22 the polygraph exam.

23 Q And there are a couple of fields there; ID, ER
24 and text. Do you see that?

25 A Oh, yeah. Yes, at the top.

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1 Q Can you tell me what those mean?

2 A The ID is the identification for the question
3 asked. The Examining Response is yes or no.
4 The text is the text of the question. And the
5 series type is the format used.

6 I'm starting to get hoarse. I need to
7 get a drink of water. Excuse me for a quick
8 minute. Is that okay?

9 Q Yeah. Of course.

10 A I'll be right back.

11 All right. I'm sorry.

12 Q So the fields that you're referring to are just
13 part of the program that's used and the
14 questions then fall under the text field that
15 you're referring to. So under the ER, are
16 those the actual responses Lenny Mazzola gave?

17 A Yes.

18 Q So am I correct in reading this that he was
19 asked, "In your entire life did you ever
20 violate a law?" Was he asked that?

21 A Well, yes, but he's instructed to lie to that
22 question. It's called a directed lie
23 technique. So the response to that question
24 that evokes a reaction on the test because we
25 know that's a lie.

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1 "In your entire life did you ever tell
2 even one lie" is a "no" answer. We know that's
3 a lying response physiologically and that data
4 then is compared to other data. Where you see
5 the response of "no" next to R-4, that's a
6 relevant question. It's a no response to a
7 relevant question.

8 And then you see the Y response; "Are you
9 in the State of Ohio? Are you sitting down?",
10 and, "Are the lights on?" Those are truthful
11 responses.

12 The questions that are neutral questions,
13 the comparison question, "In your entire life
14 did you ever tell even one lie?" When
15 answering no to that, that is a known lie and
16 it's a directed lie because the examinee is
17 told to answer the question with a no response,
18 and then the physiological data is compared
19 between the comparison questions to the
20 relevant questions through course and protocol
21 of the MGQT, which is the Multi General
22 Question Test.

23 Q Would you look at document Evans 123?

24 A Okay. I have it.

25 Q Can you tell me what that document is?

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1 A This is the Garrity warning that was signed
2 before the interview and was then used again
3 before the polygraph exam.

4 Q Do you know if that's Leonard Mazzola's
5 signature on the bottom?

6 A Yes, it is.

7 Q And the date is March 13, 2019?

8 A Yes.

9 Q There's a paragraph here, "You are further
10 ordered not to discuss this internal
11 investigation with anyone other than your chain
12 of command or attorney including, but not
13 limited to, witnesses or perspective
14 witnesses."

15 Do you see that?

16 A Yes, I see that.

17 Q Did I read that correctly?

18 A Yes.

19 Q Did you actually verbally give that to
20 Mr. Mazzola or just hand him the document?

21 A Well, as a courtesy I would have given it to
22 his lawyer, Sara Liva, who's the witness. And
23 she went over that with her client, in this
24 case Leonard Mazzola, but each one that I
25 interviewed got the same document.

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1 Q And Sara Liva signed this, correct?

2 A Yes.

3 Q And it states that, "You are further ordered
4 not to discuss this internal investigation with
5 anyone other than your chain of command or
6 attorney." Right?

7 A Yes.

8 Q And Sara Liva signed this as Leonard Mazzola's
9 attorney, correct?

10 MS. SAVOIE: Object.

11 A Yes.

12 Q Okay. The next sentence says, "A violation of
13 this order will be considered an act of
14 insubordination which could result in
15 disciplinary action against you, up to and
16 including termination from employment with the
17 City of Independence."

18 A Yes.

19 Q That was conveyed to Leonard Mazzola?

20 A It was signed by him and his lawyer at the time
21 that it was given twice; once before the
22 polygraph, the latter of the two, and the first
23 time would have been on the 13th when I
24 interviewed him.

25 Q So Leonard Mazzola was advised at how serious

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1 it was that he not discuss this internal
2 investigation with anyone in March of 2019,
3 would you agree with that?

4 A The document speaks for itself in that regard.

5 Q Is this Garrity warning essentially the
6 statements cannot be used against the person
7 who's given the warning in a criminal
8 proceeding, correct?

9 A Correct.

10 Q Can the statements be used against another
11 third-party in a criminal proceeding?

12 A Yes.

13 Q So it's potentially if someone else was ever
14 brought up on criminal charges for improper
15 access to the police computers or improper
16 access to public records, Lenny Mazzola's
17 statements could have been used against that
18 third-party, correct?

19 A Yes.

20 Q Mr. Evans, I'm just going to look through my
21 notes for a second. I think that might be all
22 I have.

23 MR. STRANG: That's all I have
24 for now. Thank you.

25 MS. SAVOIE: I think we're done.

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1 Let's take a quick break and we're going to
2 review some notes really quick. Okay?

3 (Recess taken.)

4 MS. SAVOIE: Mr. Evans, we don't
5 have any redirect questions for you. We're
6 finished.

7 THE WITNESS: Okay. Thank you.

8 MS. SNYDER: He will read his
9 deposition, please.

10 (Off the record at 5:10 p.m.)

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CADY REPORTING SERVICES, INC.

1 THE STATE OF OHIO,) SS:
2 COUNTY OF CUYAHOGA.)

3 I, Aimee N. Szinte, a Notary Public within and
4 for the State of Ohio, duly commissioned and
5 qualified, do hereby certify that BILL EVANS was
6 first duly sworn to testify the truth, the whole
7 truth and nothing but the truth in the cause
8 aforesaid; that the testimony then given by him was
9 by me reduced to stenotypy in the presence of said
10 witness, afterwards transcribed on a
11 computer/printer, and that the foregoing is a true
12 and correct transcript of the testimony so given by
13 him as aforesaid.

14 I do further certify that this deposition
15 was taken at the time and place in the foregoing
16 caption specified, that I am not a relative,
17 counsel or attorney of either party, or otherwise
18 interested in the events of this action.

19 IN WITNESS WHEREOF, I have hereunto set my
20 hand and affixed my seal of office at Cleveland,
21 Ohio, on this 6th day of July, 2020.

22
23 *Aimee Szinte*



24 Aimee N. Szinte, Notary Public
25 within and for the State of Ohio
My Commission expires July 15, 2023.

CADY REPORTING SERVICES, INC.

1 THE STATE OF OHIO)
2) SS:
3 COUNTY OF CUYAHOGA)

4 Before me, a Notary Public in and for said
5 state and county, personally appeared the
6 above-named BILL EVANS, who acknowledged that
7 she/he did sign the foregoing transcript and that
8 the same is a true and correct transcript of the
9 testimony so given.

10 IN TESTIMONY WHEREOF, I have hereunto
11 affixed my name and official seal at
12 this day of
13 , 2020.

14
15
16
17
18 Notary Public

19
20 My Commission Expires:
21
22
23
24
25

CADY REPORTING SERVICES, INC.

DEPOSITION ERRATA SHEET

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SIGNATURE:

DATE:

BILL EVANS

CADY REPORTING SERVICES, INC.

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the
Northern District of Ohio

Leonard Mazzola

Plaintiff

v.

Anthony Togliatti

Defendant

Civil Action No. 1:19-cv-02519

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: William D. Evans, II, Co., L.P.A., 1185 S. Main St., Akron, OH 44301

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: All documents (communications, reports, drafts, videos, etc.) regarding services provided in 2019 to the City of Independence, its Division of Police, or its Law Department regarding an Internal Affairs and/or workplace investigation involving a matter of alleged unauthorized disclosure of departmental information.

Place: Chandra Law Firm LLC, 1265 W. Sixth St., Ste. 400,
Cleveland, OH 44113

Date and Time:

12/18/2019 4:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/04/2019

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Leonard Mazzola, who issues or requests this subpoena, are:

Ashlie Case Sletvold, 1265 W. Sixth St., Ste. 400, Cleveland, OH 44113 ashlie.sletvold@chandraLaw.com 216.578-1700

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Plaintiff's Exhibit 1

Civil Action No. 1:19-cv-02519

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
 - (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
 - (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
 - (iv) subjects a person to undue burden.
- (B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:
- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

3.5 hours 1:30-5:00

1st I reported for work 1³⁰ PM Sunday 12-8-19

002
SARA
BRAIN DARTON

- I don't know immigration will have
- CHIEF's answer By chief KILBANE Admin 3/7/19.
- Sect 2915.04 my a unit apply I don't know where immigration is going to go. section of the doc says nothing held w/6 copies of computer sure not be discussion w/ press authority.

- I am not at home I go out some amount.
- Did have to say yes I must GARNITY I can say I don't know I must
- SARA says no garnity go on the w/sum if you like.

- SARA says would I mind if I call Bob I say sure! SARA calls Bob

- Saw Sam for 26 yrs - 2 yrs 3 mos in drop.
- (me talk @ Drop & know in drop.
- (me talk @ Drop.

- SARA & I talk @ County after Sam

- I say I can talk to HR Director & see what she want.

SARA says that some they not sign this form when denied by employees.

- I ASK employee to leave & Sam & I talk w/ Sam alone

- Bob answer to not have the 15/ garnity form means the employer separate than 15/ the form.

— When I he says I disseminates all this stuff ~~for~~ (also giving) then I'm a witness.

— So let me go back to her.

REC 004

I thought he'd be really pissed when he found out his "stuff" was sent out.

Note (there are no way he sent that stuff out) ~~DATA~~

— Shape said item 3/4 fell from the vision & 1/4 showed him 3 @ DARTON into up a doct then he saw 4 from MATZOW to chief.

EXH #4 Note Pre DISC. Hearing if he saw it could have been told in up right.

— DARTON never got a pre-DISC hearing notice.

— "I give everybody the benefit of the doubt & that might be the end w/ him."

STIC-01
REC 004 Sgt CROSS

NO INFO

REC 005

Sgt CROSS = CHASE DOOR discussion primarily @ MATZOW / GALT. "In not how cut it cut off absolute criminal issue; I don't care what me do I'm not L.E. anymore I am care MATZOW; I'm not pushing up on this to get anyone prosecuted against. There was discussion leading up to getting 2

For you: you can refer to me as Bill
 Cross 1 unit's loyalty to Sgt Cross #1/ON if
 Cross conspiring with Sam that she is
 there for the union.

Report of that Sam capitalized version of
 loyalty. Sam witnessed family

then Sam is an advocate of the dissemination
 of info

- Bob asked me to tell you "What - - -
 I then told him I said that too,

dissemination of flagrant info created by the
 Dept

- I explain that is a crime punishment &
 internal matter i.e. - police discipline.
 I explain police/prosecutor hotel life
 is confined of the police Dept.

- Fox 8 is part of parcel to what I am
 referring to.

Q Was there been discussion & subject of
 warning

EXHIBIT 1 disseminated in August.

" 2

" 3

" 4

"

"

"

"

"

"

"

"

"

"

"

"

"

"

"

"

"

what up for officer Brian Barton

Q How long have you been at Washington
 so far maybe 1975 B.C. that
 many years ago before that

I think at least someone ORC could
 apply ~~CHIEF~~ Believes this could
 be an F-3. IE dissemination of info
 w/o authorization & dissemination to public
 public.

would you agree there are adverse property/
 to nature.
 I would want it disseminated.

I come from different background →
 if you screw up.

Are there 3 property ^{are property & property} confirmed to a
 "Spencer" group of not
 particular distribution channel; for safety
 protect integrity of investigation & safety
 officer Director HAT A personal
 right.

As far as I'd make you seem has to
 be proprietary. ANS did it well
 they are not matter to be dissemination
 IE. Sgt KURTZ could give OR discussed at
 this family.

Even to a case in importance
 that something should NOT be submitted -
 would you respect your job enough.

Personal info @ Director IF Director says this
 "person in above I don't want more
 knowing my dirt handle (Director) Director
 this I don't want anyone to know @ IT!!!
 no one can have been written to

Director told
 me the
 Director want
 agree to
 follow

Q if someone disavows this w/o my OK.
I'd be happy ~~with~~ ^{to} up
it someone disavowed it again?
Sgt. Agree & It would be my regret.

- Its not right to discriminate it when ~~it~~
17

Would you see it as a Brand of
intentional posing to DISTURB - - -

I see nothing on there to say it
policy of this city ... then not contrary,
policy → ✓

Note: I intentionally based upon the info I was told could not be distributed.

ASSUME He told. I don't know
if he missed it sometime or no

ITEM 1.3 I can't think of my symptoms
reason why they are associated to autism

"if they were in my command I would
 visit them ^{up} if I found out @
 15; 15 with a barrel of powder &
 did visit them if I knew
 they did 15."

Two more went #4 Before

"it went to Sgt Kurtz & HE HUNG HIS ON
1413 BOOK I HAD PREVIOUSLY GOT A COPY. HE HAD
A MYST & I HAD HAD UP THERE.

4 other SGTs have DESKS & NO ONE A
MYST

IF I get a copy I would
not have given a copy to anyone &
I do NOT give it or show it to
anyone."

Q. 17
Item 2

@ OFFICER ARNOLD WAS A SCOUTMASTER
OF THE ISSUED FOR CHIEF OF
PATTEN DIVISION.

unimportant from 4 Do you know any
thought @ meeting then up of 15
went to FOX & "Did
do my job."

Item
17

Please read the items it says these
ITEMS to ITEM #17.

TAKE A LOOK AT ITEM 17 & note
similarities in language.

Q. 17 See the similarities between 17 & item 17
the one that has transitions in it.
correction 1st paragraph - - - Sorry
1st paragraph - - - If I
definitely see a correlation in
those two / / per Sgt Clark.

I agree on the similarity

Because I was trying to officer Datto's
stuff getting out there and was in
the same Document Request.

A/Y know if anyone who would have
had access to write up for Datto
Director's

internal security.
who would have had access

- 1 Answer probably not proper officer.
- 2 Chief would have had access to all
- 3 Not SGT's they would not have had access to
Datto's write up OR P2200's write up.
- 4 No access to P2200's #4
- 5 I'm sure some #5 which is explicitly
request.

No access to Datto's write up #3, No access
to Datto's write up on #5

I only had access to #1 & #2

Q D/Y provide on the above grounds
by 2 those documents to FOX P

A NO.

Q AS Comm Dominator who would have
had access BESIDES the CHIEF.

A I do not know - 1T

NO IT @ Datto's write up IT was
only created created by CHIEF using
on the same IT system

DATON units - up was not in computer
 man seen his unit up unit
 gained only DATON But an
 told MASON who access to
 IT by MASON -

- right of the Dept. placed @ the
 unit up.

IF MEDIA has the very document in their
 possession what does that tell you
 if MASON DATON says I would
 not unit myself to have my
 units - up!!

(X) - Got true @ the "match - day".
 Everyone wondered how anyone
 got this information.

Note Even this good point - no wonder that is
 a policy to keep things private & the
 city policy @ the dissemination.

(X) (X) (X) I do not support the dissemination of
 this stuff to media.

- Someone could have gotten the stuff to
 Fox 8 in a "back door" way.

Chase MASON

Agreement of DATON given to MASON
 any people possess unit MASON
 "Data it comes".

per am how issue is what else is
getting out there might be
prejudice in matters...

states He'd initiate the discipline.

There are plenty of people who don't
like the chief there & he took
a job from someone else.

I know numerous things disappear from my
BVI

o/y HAVE had stuff stolen many years
no from backroom room ① FILLER
② Animal FRO of traffic stops.
③

Motive - plenty of people that don't like chief.
outsider → moves others up if promotion
from within all 32 of us were in
line for the chief's spot.

interview Pollock Afton; MROZ &
JOHN SMITH

Smith Refused w/ over 5 yrs.

Dep chief Pollock still engaged here

Tamuello. W/ Insurance 21 years. now
chief stepped in w/ Fund 57 Sp.

Sgt Thurwell works 2 - 4 days / wk
She has seen guy so know you

CHIEF Give me OAC. Section pertaining to this case.

15) Documents w purpose of the CEE - ^{document} market survey.

I gave Berman cards to Timmell. 3/17/19.
CORE SECTIONS

I got a copy of Item 1 ~~costa Rican~~ ~~other~~ ~~early~~ ~~the~~ ~~apple~~ ~~is~~.
Don't recall seeing Item 2 even before addressed for K. L. B. D.
P. W. R.

We are appealing this as an intentional ~~unintentional~~

Chief of Bureau of Prisons of D.C. in Report before
passed by Chief of Bureau of Prisons

Number of	Items 3
Nodes	Items 4

Q Did you get the Chief's order to interview?
A Yes

IF you do your job you don't need my
the orders to get money

- "I endorse productivity, not time itself."
- productivity is productivity, & accordingly

Assume there were discussion outside of these channels

Q would you consider there to be internal proprietary documents

A yes.

I would imagine they are subject to public records requests.

I say you ~~can't~~ request public records

Q would you consider there to be internal proprietary & confidential.

A yes I would agree

Q if one of your people in your company documents info in the documents would this be violation of procedure policy

A I would imagine I could write a memo you I would write them up.

Q It's the content of documents the information cannot be done or worked by that?

A yes

Q D/Y distribute any of these if yourself

A chiefly asked in 2 who this form.

the answer is no

Q >1/4 are more documents

A NO ABSOLUTELY NOT.

Has hood
no
LINE
17 on
axis

4

Copy no longer to 15" if
here; do you see similarities.
They are almost identical
Ruhes is not spelled right.

"Tuition" is the same in both.

ITEM 5 IS APOLOGIC WRITE UP of DATION.

Assume "I don't know about
SHARING my DATES HARDLY!"

(Don Tinnerelo has said this!)

Q D/Y see anything in this public
read report @ HIC write up?

A D/Y see Pub read reports reflect
to discussing proposed ~~the~~ DEXON
+ PRE D INFO. It "policies &
Traffic stops"

I see similarities!

— Acknowledges propriety of information
propriety docs.

Like To Under has prior knowledge

D/Y have any thoughts as to
WHO DISSEMINATING CORRUPT

I have no basis in fact
I know it's not me

Q Did the program have access
yes the memo signed on KURT

(XKD) Item 4 no access to Sgt had access
to item 4.

- SGTs + above had access to MAZDA
memo to Sgt.

(XKD) Item 3 only access MA Chief MAZDA
of Mayor.

- not patrol
- Not Sgt's.
- it was created by MAZDA.

Item 2 was accessible to
everyone

Common denominator would have been

A Mailly Officer above SGTs

1 MAZDA

2 Chief

3 MA

4 Mayor's office

5 Law Dept.

6 ASST Chief House issued

it was out

Q What's your opinion on who disseminated this?

A Whomever this is ~~dissemination~~ dissemination, party.
it made Oregonia job tougher.

Q Motive?

A Take pay old law mailly -

Doc 6 Continued w/ LT Wilson

LT. WILSON

IN CHARGE of A.D. 8-4 9-5

w/ dept 31 VETS.

I was hired as major office to determine distribution of proprietary info within the confines of office.

Q I never saw this #2

T I have seen this

I have seen 1, 4, & DACTON's memo. up.

Other 5th got 1 at same time.

I saw the MAZZOLA Discipline Report.

Q The most ^{sensitive and} confidential is in my opinion.

Answer: personal files info.

Q Is there a policy prohibiting taking item
I saw 3 copy it (DACTON's memo. up)
It passed it out is it a violation?

A Yes unless it's a public record request. I'm sure there is a policy prohibiting it.

Honorable, These are all proprietary.
It wasn't, there is a public record request; it's a violation of policy.

I feel there are all public records
 & when its the immediate giving it
 out when its not released
 in the proper channel it would be
 a violation of policy.

- I feel it is to be held up,
 its policy Dept & if a
 public record report it may
 go OK to release it thru
 proper channels.

- If have Doc need provided put in
 the main course then with
 its proper channel but not
 immediately correct. I feel its
 improper & violation.

Exhibit 4 14 Aug 17

- practices, traditions

Officer Director's Write-up.

- displaying papers

- Document 4 - pre-Dissemination

- Document 2 - Staff's Response Expectations

FOR WILSON "Union they had on some
 orders its very suspicious"

- Wilson draws conclusions:

Q Who had access to all 4 documents
 besides CRILE?

(X) Wilson says he only knew person 1, 3, 4 never 2

- as far as I know I never saw 2

1 CHIEF Had all 4

2 deputy chief

3. ~~Chief~~ Committee

- ATJIM Kroger would not have been privy to any of these

- the only one I can see not having access to all of would be

IT did not have access to the Boston unit w/ b/c it was created the ~~CHIEF~~ MAZOLA.

IT could possibly have these but chief says it was limited to only a few people.

(X) I would disagree the person who did it unless it went outside the protocol for dissemination

Q Assume the matter is criminal & it got out -- I'd probably prosecute them.

A I'd prosecute on the 5105 ~~that~~ person or to why.

WILSON Remembered it is a
Violation of policy & procedure to
release these records.

Q What is notice.

A person to Quota
or

to make someone look bad.

10 Having to make 30 tickets.

- on the line of it it would be
done on my own in private.

- Q who would have been to look at
A they must & more Chief look
at it is chief

Q So who would not & more Chief
look at
A my own in private.

Q So what would have no access to

Q I was in charge of private & get the
pre existing records -- I / got to
my SGTs & 1st Lt

Q: Wilson
Sgt. Brown

Sgt. Brown I had records in schools
and off on side line, my own around.

cross
Finnish

12 WITZ Hamstring operation but was around the

Spoke to 7 w/ Lenny/McRolta

3. tells Lenny
SANTA says I'm NOT convinced there is
a criminal ISSUE here but if it comes to
that... (see inserts in FOIA/Grants)

3/13/19.

CHIEF'S ORDER IS MARKED AS "O"

WOOPS 25 YEARS.

I HAVE DISCUSSED W/ Mayor the Parameters i.e. DISSEMINATION of
info @ stuff that went to Fox news.

A NO

2 Discussed it w/ others at the station:

(1) I last discussed Fox DISSEMINATION w/ Mayor
MET Thursday BETWEEN Mayor & me.

3/13/19 - DATE
the correct time = 2/28/19 with HIS DISSEMINATION
w/ Mayor.

It was discussed between myself & Mayor @ stuff at
Dept going on since it was a public
concern @ the onerous situation since
MID JULY that myself & Dept was going
thru reference to the onerous Dept
opinions. I informed the Mayor that
this is what they had ~~presented~~ #11
Lenny's page & a copy in Lenny informed
Patrol @ the next traffic experiment.

Mayor did not have the Memo but Chief told Lenny that
Lenny had it along with Goldstein's interrupted comment in
lobby.

(2) I was Lenny's memo of Sept 25th 2018
went from Lenny to Patrol & dispatchers
& on 2/28/19 it was that he used in Lenny's
meeting w/ Mayor.

(3) When was last time discussion w/ Mayor

MUZZOLA

There was discussion w/ several @ 8/4 so it is
 know who did it.

- Chief asked me if I gave Brian Patton stuff.

- mtg Pros CHUCKOCK, myself Mayor due to
 the performance standard meeting JAN 2019 or
 Feb 2019.

Q D/Y recognize item #1
 A yes

(Memo from Larry & All 4
 staff
 it came
 from it.)

Q D/Y recognize #2 From Chief to PATROL
 A yes. ~~the~~ office through station

This was sent from Chief to
 PATROL. Went everywhere

Q How about #3

POSTED IN BACK ROOM, ALSO ON DOOR IN DB

A yes

Went from MUZZOLA to BRIAN PATTON DIRECTLY & PATTON &
 me, then given a copy to Sgt CROSS

Q How about #4

A yes (left on Lenny's Keyboard).

NOTE
 CHECK &
 SEE 1st
 CROSS
 A COPY
 OF
 DIRECTOR'S #3
 NOTE

Q WHO HAD "PRE-d" NOTICE

A me

- I was served a letter made 8/29/18 NOTICE
 Rec'd 8-29-18.

Lenny's PRE-d HEARING TUESDAY 9-4-18 1:00 PM

(B) FROM
 4

THE envelope left on Keyboard was
 sealed.

was
 sent
 pre-d
 notice
 4/4:35

I got pre-d know @ 15 but I
 4:52 Wilson Chief BOB DIRECTOR
 mangle folder to family j2
 dion

(X) notice
 of
 pre-d
 notice
 4/5:25

I did make any copies of it my pre-d notice.

~~that~~
I see bundle on my key ring
open it up; said to self
Body that don't look good

- No copies of the Pre-D

"I don't think either Pre-D mine or
Danton's ARE E-mailed but are
Electronic letterhead templates.

~~first~~
I didn't make any copies but then said I
assume Bob Phillips + Wilson got
a copy as I know

NOTE CHUCK TAIN He did not get a
copy of the Pre-D

Who do you think distributed your pro-D

- ① CHIEF NO POSSIBLE NO
- ② Letitia NO POSSIBLE NO
- ③ LT WILSON DON'T KNOW IF HE HAD MEANS BUT HE WOULD NOT HAVE DONE IT.
- ④ Nat B33 Phillips.
- ⑤ Could Be Anybody.

I did not do it.

- I CAN See another possibility per SARAT

- pissed off, grudge??

- Person must have means.

Common denominator 5 people including H.R. & Lenny.

Would you be willing to take a polygraph, no I'm not willing to take the polygraph.

I'm told chief can order polys per CBA

• SARAT LIDA checks the CBA

ITS NOT in the interview

- I was told by H.R. it was OK
- There might be a policy

per LIDA I don't see anything @ polygraphs one way or the other - per H.R. silent.

LIOA says you assume the person
 request the pre-D hearing notice; if
 the language works.

Who was in the court report will not
 specific to him. Pre-D notice.
 how many

its likely generic

— One person mentioned (DALTON)

How many pre-D hearings are there
 at Independence.

Quoted generic order standard of conduct
 302 upon standards of conduct is not specific
 & Lenny.

— Verbatim language & only 3 people

— THE present Requesting is pulled out of a
 35 page CBA.

— Primary standards of conduct is general & widely
 available.

— I can CLEAR my NAME REAL FAST.

IF they have those points, I would never
 release those documents DALTON & name.

check
 out.

IS Standard of Conduct on internet
 Lenny

LT mazzout

LT WILSON

HL Not likely.

Suspect

makes off list

— MAYBE

— Bob Purcell.

(and interview)

41°

BREAKING NEWS / Coronavirus headlines: May 11, 2020

WATCH NOW / FOX 8 News in The Morning

WEATHER ALERTS /Freeze Warning: **Carroll, Coshocton, Tuscarawas**

NEWS

I-TEAM: Lie detector test given to local police officer over traffic tickets

Plaintiff's Exhibit 3

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by: [Ed Gallek](#)

Posted: May 3, 2019 / 07:43 PM EDT / Updated: May 3, 2019 / 07:43 PM EDT

This is an archived article and the information in the article may be outdated. Please look at the time stamp on the story to see when it was last updated.

INDEPENDENCE, Ohio — The FOX 8 I-TEAM found the Independence Police Department hired an outside firm with a lie detector to question officers on the town police force after the I-TEAM reported on traffic tickets there.

Friday, we found the Independence Police Chief in the parking lot outside of headquarters and he refused to answer questions about it.

Chief Michael Kilbane said, "Send me an email with questions."

We responded with, "We've done that."

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In January, the I-TEAM revealed [internal police documents](#) outlining targets for traffic tickets to be written by Independence patrol officers.

Multiple sources said that led to an internal investigation looking, at least in part, into how those documents ended up in the hands of the I-TEAM.

We reminded the chief, he's spending taxpayer money to find out who gave us the documents.

He responded again, "Send me an email."

Christine Novak lives in Independence and she's active with a senior citizens group.

"We've heard about these new traffic ticket violation quotas," she said.

Recently, she went to a council meeting to ask Independence town leaders about this. She received silence. No response.

The I-TEAM requested the contract between Independence and the firm brought in with the lie detector. Under the contract, Independence agreed to spend \$5,000 and maybe a little more if needed. We contacted the outside company. They did not provide a comment.

During the internal investigation, one police supervisor retired. Multiple sources said he left under pressure. However, he never supplied any information to the I-TEAM.

Earlier, an officer got a written reprimand for not writing enough tickets.

The chief calls it a performance standard, not a quota.

But again, no answers when we met him in the parking lot. He said, "Because I'm late to an appointment, sir."

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The chief has also said he does not have any specific file or paperwork on the internal investigation.

Continuing coverage, [here](#).

[Suggest a Correction](#)

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Marena Reusable Face Masks

Order Now And Get \$15 Off

Wild Alaskan Company

Back In Stock: Disposable Masks Available Here

Stratton Medical Supply

Soak Your Dark Spots With This One Thing (Trending Morning Routine)

Gundry MD

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(Finance Wealth Post)

- **Caitlyn Jenner's No Makeup Photo Confirms The Rumors** (Loan Insurance Wealth)
- **This Doctor Fixes Guts – And He Begs You to Eat One Thing** (Gundry MD Total Restore Supplements)
- **Best price guarantee.Limited Stock. Place your order today & secure your items.** (OxyDeep)
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by Taboola

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by CNNwire / May 11, 2020

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by CNNwire / May 11, 2020

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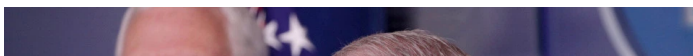
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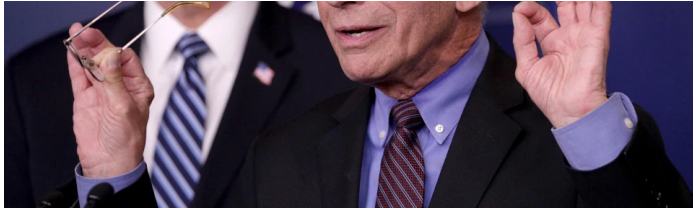
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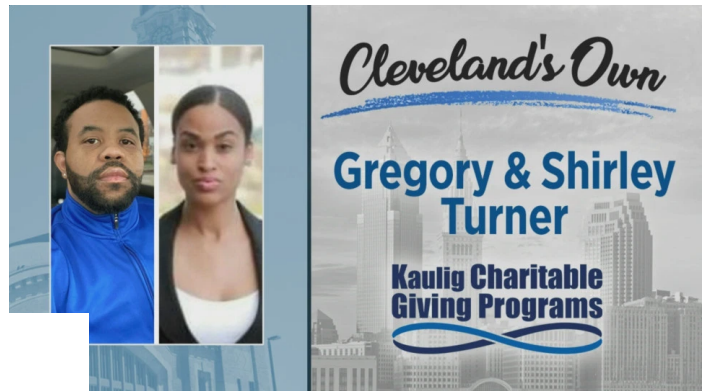
Pence not planning to enter self-quarantine, Fauci beginning 'modified quarantine' after staffers test positive



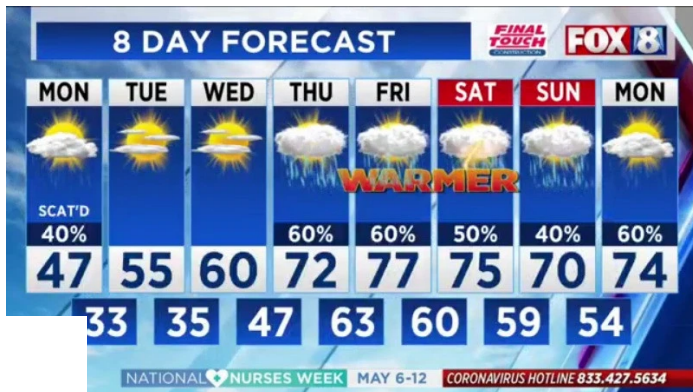
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 - 4 **Krispy Kreme unveils new key lime glazed doughnuts**
 - 5 **Dash cam video: 5-year-old boy pulled over in Utah on his way to California to try to buy a Lamborghini**
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(216) 241-4661

WILLIAM D. EVANS II, MS, JD, ACP

President

December 20, 2019

Chief Michael J. Kilbane
City of Independence
6800 Brecksville Road
Independence, OH 44131

Re: Lt. Leonard Mazzola

Dear Chief Kilbane:

On March 30, 2019, a polygraph examination was conducted on Lt. Leonard Mazzola under "CHIEFS ORDER." The subject matter tested upon was reference to documents and/or information derived therefrom, reportedly released in violation of Departmental Regulations or Standing City Procedural Regulations. The Chief of Police supplied potential violations of the Ohio Revised Code which were deemed pertinent to the matter being investigated; thus Garrity was provided prior to commencing the examination.

In addition, the proper waiver/release forms were read and signed by Lt. Leonard Mazzola (with counsel's review), indicating the examination was taken "under Garrity provisions and Chiefs Order." Enclosed is the Waiver/Release exempting Poly-Tech Inc., its affiliated officers and individuals from liability.

Best efforts were put forth to ascertain the facts, which included pre-test questioning of the person to be tested, coupled with facts supplied by your office. See notation at the bottom of our report letterhead page, regarding dissemination of this report; this report has been directed to the Chief of Police upon recent request.

During testing, the instrument used was a computerized Lafayette LX6 Polygraph using:

- 1) Two pneumograph parameters.
- 2) An upper arm blood pressure cuff with recording capacity for systolic/diastolic relative pressures, pulse/heart rate, diastolic notch and other cardio wave patterns.
- 3) EDA sensor with electrodes monitoring skin conductivity and resistance.
- 4) Blood volume monitoring via a finger plethysmograph.
- 5) A seat movement sensor.

Three phases of the examination were completed.

- 1) Pre-test interview
- 2) Testing phases
 - a. One polygraph sensitivity test used to assess reaction capability.
 - b. Five relevant tests, examining on the aforementioned issue using the Utah Technique.
- 3) Chart analysis and post-test interview.

This report is furnished by your agent, Poly-Tech Associates Inc., for your exclusive use as merely an opinion concerning the person(s) interviewed and/or examined and absolutely for no other reason or purpose.

www.polytechassoc.com

EVANS/PTA001

COPY

Chief Michael J. Kilbane
City of Independence
December 20, 2019
Page 2

Re: Lt. Leonard Mazzola

During testing phases, the following relevant questions were asked with elicited subject responses indicated.

1. Did you provide any information contained in those documents to the media?
Answer: No.
2. Do you know for sure, who provided information contained in those documents to the media?
Answer: No.
3. Did you help provide information contained in those documents to the media?
Answer: No.

After careful review of the polygrams, and the examination in its entirety, physiological changes indicative of deception occurred. This opinion is derived from hand-scoring; such result is produced by ESS-M (Empirical Scoring System Multinomial) and an algorithm result without Examiner input reference to scoring, such result is produced with the OSS-3 (Objective Scoring System). For ease of interpretation, the examination was comprehensively evaluated and Examinee's physiology in response to various test questions was scored. The algorithms match the Examiner's hand-scoring.

If I can be of further assistance, please do not hesitate to call.

Very truly yours,



Kenneth L. Butler

KLB:ra

Enclosures:

OSS-3 Algorithm Report
ESS-M Score Sheet
Waiver/Release

032019klb Mazzola

Lafayette Instrument Company
Objective Scoring System - Version 3
 By Raymond Nelson, Mark Handler and Donald Krapohl (2007)

Result	Significant Reactions
Description	p-value: < 0.001 - Probability this result was produced by a truthful person
Exam Type	Multi-facet (MGQT)
Scoring Method	OSS-3 Two-stage (Senter 2003)
Test of Proportions	None - No significant differences in artifact distribution
PF Name	032019klb Mazzola
Report Date	Wednesday, December 11, 2019
Subject	Leonard Mazzola
Examiner	Ken Butler

Spot Scores			Decision Alpha (1 tailed) Cumulative normal distribution (Barland 1985)		Components	
ID	p-value	Result	Setting	Value	Component	Weight
R4	< 0.001	Significant Reactions	NSR	0.050	Pneumo	0.19
R5	< 0.001	Significant Reactions	SR	0.050	EDA	0.53
R7	< 0.001	Significant Reactions	Bonferroni corrected alpha Test of Proportions (1 tailed)	0.017 0.050	Cardio	0.28

Relevant Questions			Answer
ID	Question Text		
R4	Did you provide any information contained in those documents to the media?		No
R5	Do you know for sure, who provided information contained in those documents to the media?		No
R7	Did you help provide information contained in those documents to the media?		No

Charts Scored				Time
Exam	Chart	Date		
1	2	3/20/2019		1:40 PM
1	3	3/20/2019		1:48 PM
1	4	3/20/2019		1:58 PM
1	5	3/20/2019		2:09 PM
1	8	3/20/2019		2:21 PM

Remarks

Measurements (Kircher and Raskin 1988)						
Exam 1 Chart 2						
	C3	R4	C6	R5	C8	R7
P1	260	229	282	260	297	328
P2	213	185	231	198	223	188
EDA	77	159	74	43	19	174
Cardio	24	141	86	67	12	54
SE	39	30	52	38	43	37
Exam 1 Chart 3						
	C3	R4	C6	R5	C8	R7
P1	361	240	341	258	313	201
P2	278	165	296	189	240	151
EDA	40	88	49	53	14	71
Cardio	171	62	43	76	28	7
SE	56	43	60	38	68	25
Exam 1 Chart 4						
	C3	R4	C6	R5	C8	R7
P1	325	273	311	266	258	164
P2	316	275	312	260	196	135
EDA	38	98	20	148	48	125
Cardio	43	94	29	83	58	41
SE	63	56	49	57	48	34
Exam 1 Chart 5						
	C3	R4	C6	R5	C8	R7
P1	389	363	425	392	453	377
P2	247	204	254	224	283	215
EDA	34	161	8	110	28	121
Cardio	3	57	29	40	19	69
SE	34	33	33	35	43	35
Exam 1 Chart 8						
	C3	R4	C6	R5	C8	R7
P1	378	302	406	456	488	362
P2	257	189	264	279	331	234
EDA	28	110	80	97	34	107
Cardio	9	63	92	109	133	113
SE	26	28	44	31	46	39

Channel Contributions						
Component	Proportion	Area	Chart	Proportion	ID	Proportion
Pneumo	0.340	0.983	Exam 1 Chart 2	0.201	R4	0.339
EDA	0.335	0.109	Exam 1 Chart 3	0.175	R5	0.328
Cardio	0.325	0.447	Exam 1 Chart 4	0.212	R7	0.333
			Exam 1 Chart 5	0.216		
			Exam 1 Chart 8	0.196		

Note: Non-normal values

Standardized Lognormal Ratios			
Exam 1 Chart 2			
	R4	R5	R7
P	-1.51	-0.72	0.00
EDA	-2.03	0.59	-2.21
Cardio	-3.00	-2.72	-1.59
WMean	-2.20	-0.59	-1.61
Mean		-1.47	
Exam 1 Chart 3			
	R4	R5	R7
P	-3.00	-3.00	-3.00
EDA	-1.85	-0.83	-1.42
Cardio	1.29	0.22	3.00
WMean	-1.19	-0.95	-0.48
Mean		-0.88	
Exam 1 Chart 4			
	R4	R5	R7
P	0.00	-0.70	-3.00
EDA	-2.01	-2.83	-2.49
Cardio	-3.00	-3.00	0.20
WMean	-1.90	-2.47	-1.84
Mean		-2.07	
Exam 1 Chart 5			
	R4	R5	R7
P	-1.95	-1.08	-1.46
EDA	-3.00	-3.00	-3.00
Cardio	-3.00	-3.00	-3.00
WMean	-2.80	-2.63	-2.70
Mean		-2.71	
Exam 1 Chart 8			
	R4	R5	R7
P	-3.00	1.04	-1.45
EDA	-1.65	-1.40	-1.60
Cardio	1.03	-1.86	-2.05
WMean	-1.16	-1.06	-1.69
Mean		-1.30	

Results		
Weighted Mean	-1.85	-1.54
Grand Total Mean	-1.69	-1.67

032019klb Mazzola

Page 3 of 3

Advanced Options - OSS-3 v1.9		
General Scoring Settings		
Delete all zero measurements		Yes
Zero Threshold value		1
Allow a single CQ to score result (not for DLST)		No
Replace missing values with mean values		No
Check Extreme Contributions		No
Allow SR Result when extreme contributions		Yes
Alpha Values (one-tailed)		
Kruskal-Wallis		0.1
Non-Significant Response (NSR)		0.05
Significant Response (SR)		0.05
Test of Proportions		
Test of Proportions alpha value (two-tailed)		0.1
Use Test of Proportions		Yes
Allow significant reaction result		Yes
Use all questions		No
Score neutral questions as control		No
Multi-facet (MGQT)		
Use Bonferroni		Yes
Use Kruskal-Wallis		No
Minimum number of useable presentations for RQs		2
Measurement Periods		
P1		15
P2		15
EDA		15
Cardio		15
All other		15

POLY-TECH ASSOCIATES, INC
1185 S MAIN ST
AKRON, OH 44301-1322

Place:

Date:

3-20-19

I, Leonard Marzola voluntarily, ~~UNDER GARRITY, UNDER CHIEF'S ORDER~~ 58
~~without threats, duress, coercion, force,~~
promises of immunity or reward request, agree and stipulate to be interviewed and/or take a polygraph (truth
verification) examination for the mutual benefit of myself, William D. Evans II, Kenneth L. Butler, POLY-TECH
ASSOCIATES, INC. AND CITY OF INDEPENDENCE MAYOR AND LAW DEPT
DIRECTOR AND CLEMENS NELSON.

I fully realize that, I am ~~not~~ required to take this examination. I may first consult with an attorney or
anyone I wish before either signing this form or being interviewed and/or taking the examination. 58
Nevertheless, I consent to the use of electronic hearing and recording devices, and I voluntarily request and
authorize William D. Evans, II/Kenneth L. Butler to now proceed with the actual interview/examination.

I do hereby authorize William D. Evans, II/Kenneth L. Butler, his directors, officers, employees and/or agents
to disclose both orally and in writing the interview/examination results and opinions to directors, officers,
employees and/or agents of POLY-TECH ASSOCIATES, INC., AND CITY OF INDEPENDENCE MAYOR
AND LAW DEPARTMENT & DIRECTOR AND CLEMENS NELSON

I am fully aware that the opinion may be that I have not been truthful. Nevertheless, in consideration of and
as inducement for William D. Evans, II/Kenneth L. Butler, to give me this interview/polygraph examination, I
for myself and my successors, assigns, heirs, executors, administrator knowingly hereby totally release,
absolve, remise, covenant, promise, agree to save harmless, waive, forever discharge, and hold free from all
harm, liability, or damage whatsoever POLY-TECH ASSOCIATES INC., Kenneth L. Butler/William D. Evans, II, as
president and in his individual capacity, ~~the above named,~~ and their respective directors, officers,
employees, and agents individually, collectively, and personally from any and all suits, actions or causes of
actions at law, claims, demands, or liabilities whatsoever or in law or in equity including but not limited to
false arrest, false imprisonment, libel, slander, or invasion of all my rights and privacy which I, my
successors, assigns, heirs, executors, or administrators ~~have now or may ever~~ have resulting directly,
indirectly, or remotely from being interviewed/examined, possible liabilities or damages, flowing from the
operation of all electronic hearing and recording devices, the rendered oral and written opinions and
statements, ~~and/or all future actions taken by any and/or all of the above~~ based upon my taking this
interview/examination. Records are kept for limited periods due to the use of digital and analog equipment
POLY-TECH ASSOCIATES, INC., or its officers cannot be held responsible for lost, or inability to retrieve,
information in the event of loss due to negligence or otherwise. The parties further release Poly-Tech
Associates, Inc. and its officers for such loss. ~~As a further consideration and inducement to have William D.~~
~~EVANS, II/Kenneth L. Butler conduct the interview/examination, I claim that I am in good mental and physical~~
condition and that I know of no mental or physical ailment which might be impaired by the
interview/examination. 58
58
58
58

IMPORTANT NOTICE: This agreement, stipulation, and release form is a legally binding contract! If not
completely understood, do not sign but seek competent advice, such as that rendered by an attorney. Poly-Tech
Associates, Inc. and William D. Evans, II, as its President, and Kenneth L. Butler are separate entities, each
are hereby released in individual and/or collective capacities. Mr. Evans/Mr. Butler will not provide legal
advice or consultation regarding this matter. Mr. Evans/Mr. Butler will merely provide information relating
only to polygraph technique and information relating to the case for which you are examined.

Witness

Signature of person to be examined

Time

(other person(s) with any interest in examination results after reading the above in its entirety, I also
agree to be bound by the terms of this release.) 2 30 PM

This interview/examination was concluded at 11:34 on the above date. Interview Polygraph

Empirical Scoring System, Multinomial (ESS-M) Report**Examinee****Leonard Mazzola****Result****SIGNIFICANT REACTIONS INDICATIVE OF DECEPTION****Posterior odds****999 to 1 odds of deception (>.99)**

Lower limit

24.4 to 1 (.96, one tailed alpha = .05)

Prior odds

Deception 1 to 1 (.50)

Truth 1 to 1 (.50)

Bayes factor

999

Decision Rule

Two-Stage Rules

Test of Proportions

No significant differences in artifact distribution ($p = .5$)**Questions**

R4	Did you provide any information contained in those documents to the media? (N)
R5	Do you know for sure, who provided information contained in those documents to the media? (N)
R7	Did you help provide information contained in those documents to the media? (N)

Test Details

032019Klb Mazzola
Exam Date 3/20/2019
Examiner Ken Butler
Report Date 12/20/2019

Questions

Questions
R4
R5
R7

Lower limit

Result
DI/SR
DI/SR
DI/SR

ESS-M Scores**Series 1, Chart 2**

	R4	R5	R7
P1	-1	0	1
P2	-1	0	-1
EDA	-2	2	-2
Cardio	-1	1	-1
PLE	-1	0	-1

Analysis Parameters

Prior probability .5
Cut ratio 1.0
CI alpha SR/DI (1 tailed) .05
CI alpha NSR/NDI (1 tailed) .05
Pairwise Alpha (1 tailed) .01
Alpha - Test of Proportions .05

Cutscores

Total NSR/NDI 3
Total SR/DI -3
Subtotal SR/DI -7

Series 1, Chart 3

	R4	R5	R7
P1	-1	-1	-1
P2	0	-1	0
EDA	-2	-2	-2
Cardio	-1	1	1
PLE	1	0	0

Series 1, Chart 4

	R4	R5	R7
P1	0	-1	-1
P2	1	-1	-1
EDA	-2	-2	-2
Cardio	-1	-1	1
PLE	0	-1	0

Series 1, Chart 5

	R4	R5	R7
P1	0	0	0
P2	-1	-1	-1
EDA	-2	-2	-2
Cardio	-1	-1	-1
PLE	1	1	0

Series 1, Chart 8

	R4	R5	R7
P1	-1	0	0
P2	-1	0	-1
EDA	-2	-2	-2
Cardio	1	-1	-1
PLE	0	0	1

	R4	R5	R7
Sub-Totals	-15	-10	-15
Grand Total		-40	

Recorded physiological data were evaluated with the Empirical Scoring System (ESS-M). The ESS-M is an evidence-based, standardized protocol for polygraph test data analysis using a Bayesian classifier with a multinomial reference distribution. Bayesian analysis treats the parameter of interest (i.e., deception or truth-telling) as a probability value for which the test data, together with the prior probability, are a basis of information to calculate a posterior probability. The multinomial reference distribution is calculated from the analytic theory of the polygraph test - that greater changes in physiological activity are loaded at different types of test stimuli as a function of deception or truth-telling in response to relevant target stimuli. The reference distribution for this exam describes the probabilities associated with the numerical scores for all possible combinations of all possible test scores for all recording sensors.

These results were calculated using a prior probability of .50 for which the prior odds of deception were 1 to 1. A credible-interval (Bayesian confidence interval) was also calculated for the posterior odds of deception using the Clopper-Pearson method and a one-tailed alpha = .05. The credible-interval describes the variability of the analytic result by treating the test statistic (posterior odds) as a random variable for which the limits of the credible interval can be inferred statistically from the test data. A test result is statistically significant when the lower limit of the credible interval for the posterior odds has exceeded the greater value of the prior odds or the required minimum cut-ratio.

The categorical test result was parsed from the probabilistic result using two-stage decision rules. Two-stage rules are based on an assumption that the criterion variance of the test questions is non-independent, and make use of both the grand total and subtotal scores. The grand total score of -40 equaled or exceeded the required numerical cutscore (-3). These data produced a Bayes factor of 999. The posterior odds of deception was 999 to 1 for which the posterior probability was >.99. The lower limit of the 1-alpha Bayesian credible interval was 24.4 to 1, which exceeded the prior odds (1 to 1). This indicates a likelihood of 95% that the posterior odds of deception exceed the prior odds. These analytic results support the conclusion that there were SIGNIFICANT REACTIONS INDICATIVE OF DECEPTION in the loading of recorded changes in physiological activity in response to the relevant test stimuli during this examination.

Referenceshttps://lafayettepolygraph.com/ess-11_8.pdf

Lafayette Instrument Company

LXSoftware Version: 11.8.5.266

EVANS/PTA008

Lafayette Instrument Company
Objective Scoring System - Version 3
By Raymond Nelson, Mark Handler and Donald Krapohl (2007)

Result **Significant Reactions**
Description **p-value: < 0.001 - Probability this result was produced by a truthful person**
Exam Type Multi-facet (MGQT)
Scoring Method OSS-3 Two-stage (Senter 2003)
Test of Proportions None - No significant differences in artifact distribution
PF Name 032019klb Mazzola
Report Date Wednesday, December 11, 2019
Subject Leonard Mazzola
Examiner Ken Butler

Spot Scores		Decision Alpha (1 tailed) <small>Cumulative normal distribution (Barland 1985)</small>		Components	
ID	p-value	Result	Setting	Value	Component
R4	< 0.001	Significant Reactions	NSR	0.050	Pneumo
R5	< 0.001	Significant Reactions	SR	0.050	EDA
R7	< 0.001	Significant Reactions	Bonferroni corrected alpha	0.017	Cardio
			Test of Proportions (1 tailed)	0.050	

Relevant Questions		
ID	Question Text	Answer
R4	Did you provide any information contained in those documents to the media?	No
R5	Do you know for sure, who provided information contained in those documents to the media?	No
R7	Did you help provide information contained in those documents to the media?	No

Charts Scored			
Exam	Chart	Date	Time
1	2	3/20/2019	1:40 PM
1	3	3/20/2019	1:48 PM
1	4	3/20/2019	1:58 PM
1	5	3/20/2019	2:09 PM
1	8	3/20/2019	2:21 PM

Remarks

Measurements (Kircher and Raskin 1988)						
Exam 1 Chart 2						
	C3	R4	C6	R5	C8	R7
P1	260	229	282	260	297	328
P2	213	185	231	198	223	188
EDA	77	159	74	43	19	174
Cardio	24	141	86	67	12	54
SE	39	30	52	38	43	37
Exam 1 Chart 3						
	C3	R4	C6	R5	C8	R7
P1	361	240	341	258	313	201
P2	278	165	296	189	240	151
EDA	40	88	49	53	14	71
Cardio	171	62	43	76	28	7
SE	56	43	60	38	68	25
Exam 1 Chart 4						
	C3	R4	C6	R5	C8	R7
P1	325	273	311	266	258	164
P2	316	275	312	260	196	135
EDA	38	98	20	148	48	125
Cardio	43	94	29	83	58	41
SE	63	56	49	57	48	34
Exam 1 Chart 5						
	C3	R4	C6	R5	C8	R7
P1	389	363	425	392	453	377
P2	247	204	254	224	283	215
EDA	34	161	8	110	28	121
Cardio	3	57	29	40	19	69
SE	34	33	33	35	43	35
Exam 1 Chart 8						
	C3	R4	C6	R5	C8	R7
P1	378	302	406	456	488	362
P2	257	189	264	279	331	234
EDA	28	110	80	97	34	107
Cardio	9	63	92	109	133	113
SE	26	28	44	31	46	39

Standardized Lognormal Ratios			
Exam 1 Chart 2			
	R4	R5	R7
P	-1.51	-0.72	0.00
EDA	-2.03	0.59	-2.21
Cardio	-3.00	-2.72	-1.59
WMean	-2.20	-0.59	-1.61
Mean		-1.47	
Exam 1 Chart 3			
	R4	R5	R7
P	-3.00	-3.00	-3.00
EDA	-1.85	-0.83	-1.42
Cardio	1.29	0.22	3.00
WMean	-1.19	-0.95	-0.48
Mean		-0.88	
Exam 1 Chart 4			
	R4	R5	R7
P	0.00	-0.70	-3.00
EDA	-2.01	-2.83	-2.49
Cardio	-3.00	-3.00	0.20
WMean	-1.90	-2.47	-1.84
Mean		-2.07	
Exam 1 Chart 5			
	R4	R5	R7
P	-1.95	-1.08	-1.46
EDA	-3.00	-3.00	-3.00
Cardio	-3.00	-3.00	-3.00
WMean	-2.80	-2.63	-2.70
Mean		-2.71	
Exam 1 Chart 8			
	R4	R5	R7
P	-3.00	1.04	-1.45
EDA	-1.65	-1.40	-1.60
Cardio	1.03	-1.86	-2.05
WMean	-1.16	-1.06	-1.69
Mean		-1.30	

Channel Contributions						
Component	Proportion	Area	Chart	Proportion	ID	Proportion
Pneumo	0.340	0.983	Exam 1 Chart 2	0.201	R4	0.339
EDA	0.335	0.109	Exam 1 Chart 3	0.175	R5	0.328
Cardio	0.325	0.447	Exam 1 Chart 4	0.212	R7	0.333
			Exam 1 Chart 5	0.216		
			Exam 1 Chart 8	0.196		

Note: Non-normal values

Results		
Weighted Mean		
-1.85	-1.54	-1.67
Grand Total Mean		
-1.69		

Advanced Options - OSS-3 v1.9	
General Scoring Settings	
Delete all zero measurements	Yes
Zero Threshold value	1
Allow a single CQ to score result (not for DLST)	No
Replace missing values with mean values	No
Check Extreme Contributions	No
Allow SR Result when extreme contributions	Yes
Alpha Values (one-tailed)	
Kruskal-Wallis	0.1
Non-Significant Response (NSR)	0.05
Significant Response (SR)	0.05
Test of Proportions	
Test of Proportions alpha value (two-tailed)	0.1
Use Test of Proportions	Yes
Allow significant reaction result	Yes
Use all questions	No
Score neutral questions as control	No
Multi-facet (MGQT)	
Use Bonferroni	Yes
Use Kruskal-Wallis	No
Minimum number of useable presentations for RQs	2
Measurement Periods	
P1	15
P2	15
EDA	15
Cardio	15
All other	15

032019kib Mazzola - Examiner Score Sheet (Event-Specific)

Page 1

	1	2	3	Totals
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Information

Examiner Name: Ken Butler
 Final Result: DI
 Date Scored: 12/20/2019
 Countermeasures: None Suspected

 Decision Rule: Two Stage Rule
 Prior Probability: 0.500000

Series 1, Chart 2

	R4	R5	R7
P2	-1	0	-1
P1	-1	0	+1
EDA	-2	+2	-2
Cardio	-1	+1	-1
PLE	-1	0	-1

Series 1, Chart 3

	R4	R5	R7
P2	0	-1	0
P1	-1	-1	-1
EDA	-2	-2	-2
Cardio	-1	+1	+1
PLE	+1	0	0

Series 1, Chart 4

	R4	R5	R7
P2	+1	-1	-1
P1	0	-1	-1
EDA	-2	-2	-2
Cardio	-1	-1	+1
PLE	0	-1	0

Series 1, Chart 5

	R4	R5	R7
P2	-1	-1	-1
P1	0	0	0
EDA	-2	-2	-2
Cardio	-1	-1	-1
PLE	+1	+1	0

Series 1, Chart 8

	R4	R5	R7
P2	-1	0	-1
P1	-1	0	0
EDA	-2	-2	-2
Cardio	+1	-1	-1

	1	2	3	Totals
PLE	0	0	+1	

Results

				Grand Total
Sub-Totals	-15	-10	-15	-40

General Information

Subject Name: Leonard Mazzola

Notes:

Empirical Scoring System, Multinomial (ESS-M) Report

Examinee

Leonard Mazzola

Result

SIGNIFICANT REACTIONS INDICATIVE OF DECEPTION

Posterior odds

243 to 1 odds of deception (>.99)

Lower limit

18.7 to 1 (.95, one tailed alpha = .05)

Prior odds

Deception 1 to 1 (.50)

Truth 1 to 1 (.50)

Bayes factor

243

Decision Rule

Two-Stage Rules

Test of Proportions

No significant differences in artifact distribution ($p = .5$)

Questions

R4	Did you provide any information contained in those documents to the media? (N)
R5	Do you know for sure, who provided information contained in those documents to the media? (N)
R7	Did you help provide information contained in those documents to the media? (N)

Test Details

Questions

ESS-M Scores

032019Klb Mazzola	Questions	Lower limit	Result	
Exam Date 3/20/2019	R4		DI/SR	
Examiner Ken Butler	R5		DI/SR	
Report Date 12/20/2019	R7		DI/SR	

Series 1, Chart 2

	R4	R5	R7
P1	-1	0	-1
P2	-1	0	-1
EDA	-2	2	-2
Cardio	-1	1	-1
PLE	-1	0	-1

Analysis Parameters

Prior probability	.5	Cutscores	
Cut ratio	1.0	Total NSR/NDI	3
CI alpha SR/DI (1 tailed)	.05	Total SR/DI	-3
CI alpha NSR/NDI (1 tailed)	.05		
Pairwise Alpha (1 tailed)	.01	Subtotal SR/DI	-7
Alpha - Test of Proportions	.05		

Series 1, Chart 3

	R4	R5	R7
P1	-1	-1	-1
P2	0	-1	0
EDA	-2	-2	-2
Cardio	-1	1	1
PLE	1	0	0

Summary of Analysis

Recorded physiological data were evaluated with the Empirical Scoring System (ESS-M). The ESS-M is an evidence-based, standardized protocol for polygraph test data analysis using a Bayesian classifier with a multinomial reference distribution. Bayesian analysis treats the parameter of interest (i.e., deception or truth-telling) as a probability value for which the test data, together with the prior probability, are a basis of information to calculate a posterior probability. The multinomial reference distribution is calculated from the analytic theory of the polygraph test - that greater changes in physiological activity are loaded at different types of test stimuli as a function of deception or truth-telling in response to relevant target stimuli. The reference distribution for this exam describes the probabilities associated with the numerical scores for all possible combinations of all possible test scores for all recording sensors.

These results were calculated using a prior probability of .50 for which the prior odds of deception were 1 to 1. A credible-interval (Bayesian confidence interval) was also calculated for the posterior odds of deception using the Clopper-Pearson method and a one-tailed alpha = .05. The credible-interval describes the variability of the analytic result by treating the test statistic (posterior odds) as a random variable for which the limits of the credible interval can be inferred statistically from the test data. A test result is statistically significant when the lower limit of the credible interval for the posterior odds has exceeded the greater value of the prior odds or the required minimum cut-ratio.

The categorical test result was parsed from the probabilistic result using two-stage decision rules. Two-stage rules are based on an assumption that the criterion variance of the test questions is non-independent, and make use of both the grand total and subtotal scores. The grand total score of -22 equaled or exceeded the required numerical cutscore (-3). These data produced a Bayes factor of 243. The posterior odds of deception was 243 to 1 for which the posterior probability was >.99. The lower limit of the 1-alpha Bayesian credible interval was 18.7 to 1, which exceeded the prior odds (1 to 1). This indicates a likelihood of 95% that the posterior odds of deception exceed the prior odds. These analytic results support the conclusion that there were SIGNIFICANT REACTIONS INDICATIVE OF DECEPTION in the loading of recorded changes in physiological activity in response to the relevant test stimuli during this examination.

Series 1, Chart 4

	R4	R5	R7
P1	0	-1	-1
P2	1	-1	-1
EDA	-2	-2	-2
Cardio	-1	-1	1
PLE	0	-1	0

	R4	R5	R7
Sub-Totals	-10	-4	-8
Grand Total		-22	

References

https://lafayettepolygraph.com/ess-11_8.pdf

Lafayette Instrument Company

LXSoftware Version: 11.8.5.266

EVANS/PTA014

032019klb Mazzola - Examiner Score Sheet (Event-Specific)**Page 1**

	1	2	3	Totals
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Information

Examiner Name Ken Butler
 Final Result DI
 Date Scored 12/17/2019
 Countermeasures None Suspected

Decision Rule: Auto Select
 Prior Probability: 0.500000

Series 1, Chart 2

	R4	R5	R7
P2	-1	0	-1
P1	-1	0	+1
EDA	-2	+2	-2
Cardio	-1	+1	-1
PLE	-1	0	-1

Series 1, Chart 3

	R4	R5	R7
P2	0	-1	0
P1	-1	-1	-1
EDA	-2	-2	-2
Cardio	-1	+1	+1
PLE	+1	0	0

Series 1, Chart 4

	R4	R5	R7
P2	+1	-1	-1
P1	0	-1	-1
EDA	-2	-2	-2
Cardio	-1	-1	+1
PLE	0	-1	0

Results

	Grand Total		
Sub-Totals	-10	-4	-8
			-22

General Information

Subject Name: Leonard Mazzola
 Notes:

Lafayette Instrument Company
Objective Scoring System - Version 3
By Raymond Nelson, Mark Handler and Donald Krapohl (2007)

Result	Significant Reactions
Description	p-value: < 0.001 - Probability this result was produced by a truthful person
Exam Type	Multi-facet (MGQT)
Scoring Method	OSS-3 Two-stage (Senter 2003)
Test of Proportions	None - No significant differences in artifact distribution
PF Name	032019klb Mazzola
Report Date	Tuesday, December 17, 2019
Subject	Leonard Mazzola
Examiner	Ken Butler

Spot Scores		Decision Alpha (1 tailed) <small>Cumulative normal distribution (Barland 1985)</small>		Components	
ID	p-value	Result	Setting	Value	Weight
R4	< 0.001	Significant Reactions	NSR	0.050	Pneumo 0.19
R5	< 0.001	Significant Reactions	SR	0.050	EDA 0.53
R7	< 0.001	Significant Reactions	Bonferroni corrected alpha	0.017	Cardio 0.28
			Test of Proportions (1 tailed)	0.050	

Relevant Questions		
ID	Question Text	Answer
R4	Did you provide any information contained in those documents to the media?	No
R5	Do you know for sure, who provided information contained in those documents to the media?	No
R7	Did you help provide information contained in those documents to the media?	No

Charts Scored				
Exam	Chart	Date	Time	
1	2	3/20/2019	1:40 PM	
1	3	3/20/2019	1:48 PM	
1	4	3/20/2019	1:58 PM	

Remarks

Measurements (Kircher and Raskin 1988)						
Exam 1 Chart 2						
	C3	R4	C6	R5	C8	R7
P1	260	229	282	260	297	328
P2	213	185	231	198	223	188
EDA	77	159	74	43	19	174
Cardio	24	141	86	67	12	54
SE	39	30	52	38	43	37
Exam 1 Chart 3						
	C3	R4	C6	R5	C8	R7
P1	361	240	341	258	313	201
P2	278	165	296	189	240	151
EDA	40	88	49	53	14	71
Cardio	171	62	43	76	28	7
SE	56	43	60	38	68	25
Exam 1 Chart 4						
	C3	R4	C6	R5	C8	R7
P1	325	273	311	266	258	164
P2	316	275	312	260	196	135
EDA	38	98	20	148	48	125
Cardio	43	94	29	83	58	41
SE	63	56	49	57	48	34

Standardized Lognormal Ratios			
Exam 1 Chart 2			
	R4	R5	R7
P	-1.51	-0.72	0.00
EDA	-2.03	0.59	-2.21
Cardio	-3.00	-2.72	-1.59
WMean	-2.20	-0.59	-1.61
Mean		-1.47	
Exam 1 Chart 3			
	R4	R5	R7
P	-3.00	-3.00	-3.00
EDA	-1.85	-0.83	-1.42
Cardio	1.29	0.22	3.00
WMean	-1.19	-0.95	-0.48
Mean		-0.88	
Exam 1 Chart 4			
	R4	R5	R7
P	0.00	-0.70	-3.00
EDA	-2.01	-2.83	-2.49
Cardio	-3.00	-3.00	0.20
WMean	-1.90	-2.47	-1.84
Mean		-2.07	

Channel Contributions						
Component	Proportion	Area	Chart	Proportion	ID	Proportion
Pneumo	0.346	0.986	Exam 1 Chart 2	0.342	R4	0.346
EDA	0.333	0.106	Exam 1 Chart 3	0.298	R5	0.328
Cardio	0.322	0.434	Exam 1 Chart 4	0.361	R7	0.326

Note: Non-normal values

Results		
Weighted Mean	-1.76	-1.34
Grand Total Mean	-1.47	-1.31

(Without Visual Inspection)

Advanced Options - OSS-3 v1.9	
General Scoring Settings	
Delete all zero measurements	Yes
Zero Threshold value	1
Allow a single CQ to score result (not for DLST)	No
Replace missing values with mean values	No
Check Extreme Contributions	No
Allow SR Result when extreme contributions	Yes
Alpha Values (one-tailed)	
Kruskal-Wallis	0.1
Non-Significant Response (NSR)	0.05
Significant Response (SR)	0.05
Test of Proportions	
Test of Proportions alpha value (two-tailed)	0.1
Use Test of Proportions	Yes
Allow significant reaction result	Yes
Use all questions	No
Score neutral questions as control	No
Multi-facet (MGQT)	
Use Bonferroni	Yes
Use Kruskal-Wallis	No
Minimum number of useable presentations for RQs	2
Measurement Periods	
P1	15
P2	15
EDA	15
Cardio	15
All other	15

Mazzola AFMGQT.lxq

12/9/2019

Page 1 of 1

ID	ER Text	Series Type: MGQT
I1	Y Are the lights on in this room?	
SR2	Y Regarding the internal document information that was provided to the media, do you intend to answer each question truthfully?	
C3	N In your entire life, did you ever tell even one lie?	
R4	N Did you provide any information contained in those documents to the media?	
R5	N Do you know for sure, who provided information contained in those documents to the media?	
C6	N In your entire life, did you ever violate a law?	
R7	N Did you help provide information contained in those documents to the media?	
C8	N In your entire life, did you ever do anything that was dishonest?	
XX	Remain still.	
I1A	Y Are you in the state of Ohio?	
I1B	Y Are you now sitting down?	

032019Klb Mazzola Series 1 Chart 1

Subject: Leonard Mazzola

Examiner: Ken Butler

Date: 3/20/2019 View Size: Normal

Time Start: 1:24:40 PM End: 1:28:25 PM Duration: 03:45

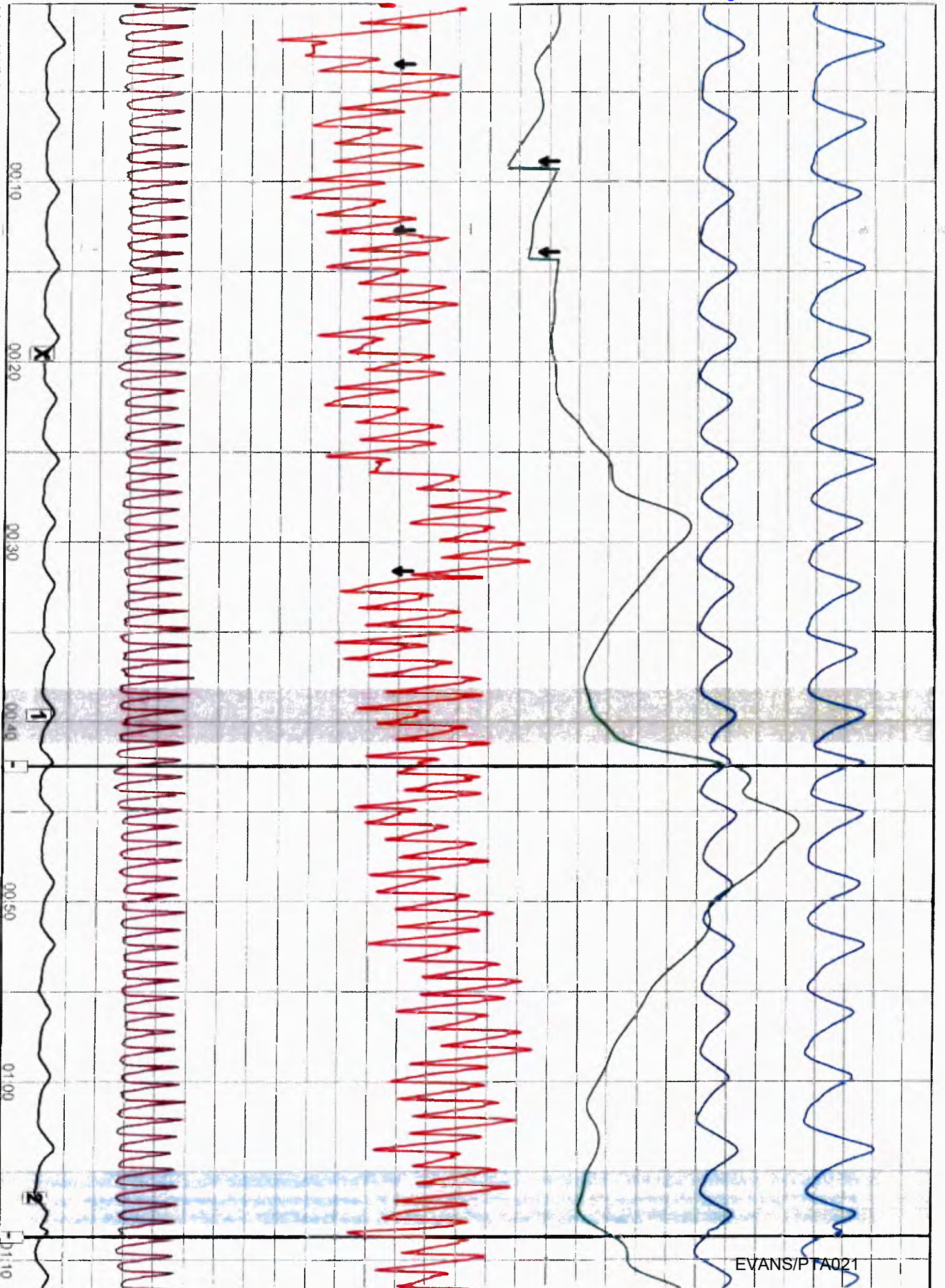
Cuff Pressure Start: 74 End: 74

ACOT Known Solution (Rank Acquaintance)

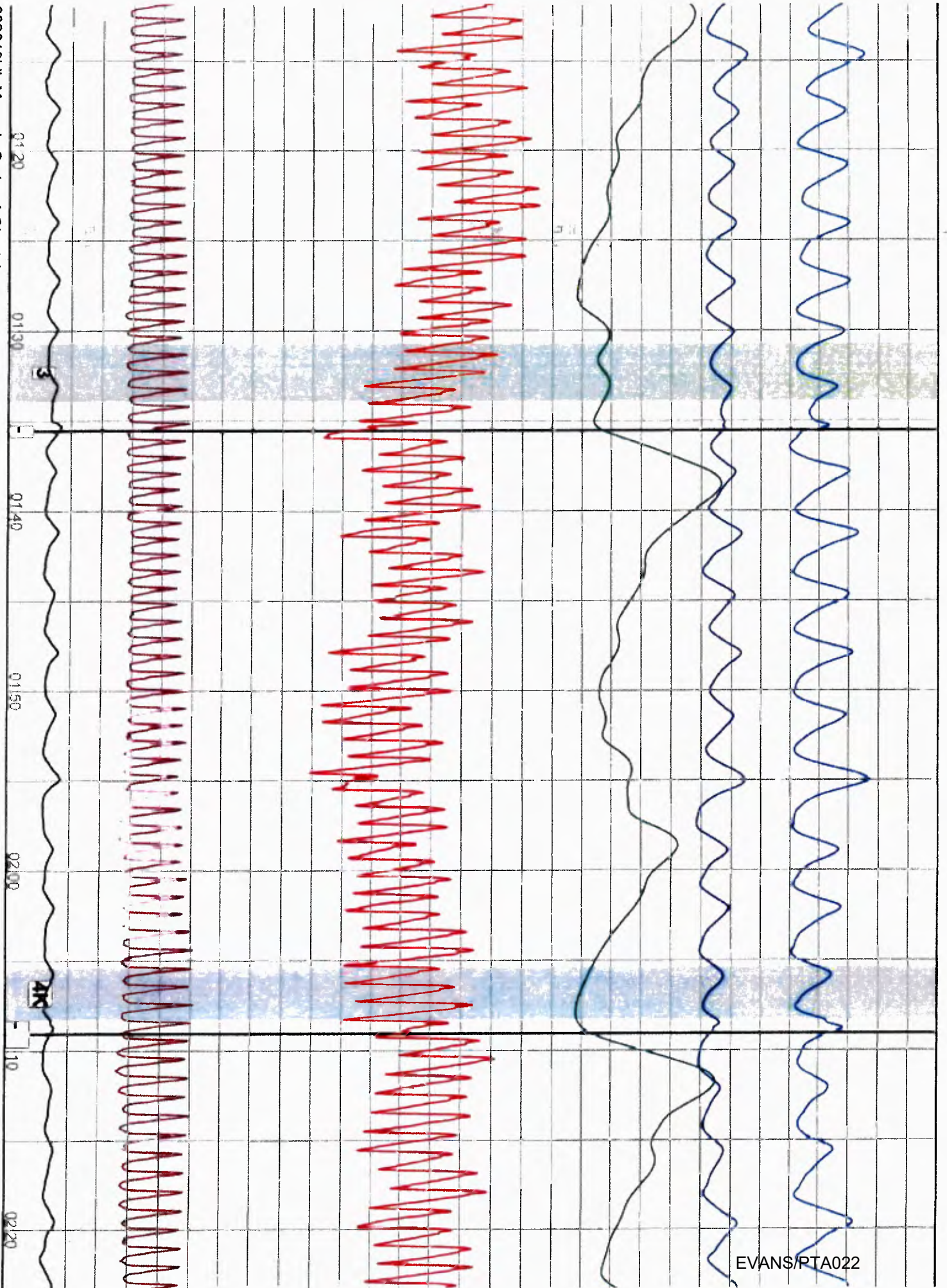
Gain Settings:	CA	P1	P2	FE	SE	AR	EA	PL	AU
Recorded: Start	3.0	2.7	4.3	---	4.3	---	1.4	2.2	---
Recorded: End	3.0	2.7	4.3	---	4.3	---	1.4	2.2	---
Printed: Start	3.0	2.7	4.3	---	4.3	---	1.4	2.2	---
Printed: End	3.0	2.7	4.3	---	4.3	---	1.4	2.2	---
Recorded Electrodermal: Automatic									
Printed Electrodermal: Automatic									

11.8.0.402

032019Klb Mazzola Series 1 Chart 1

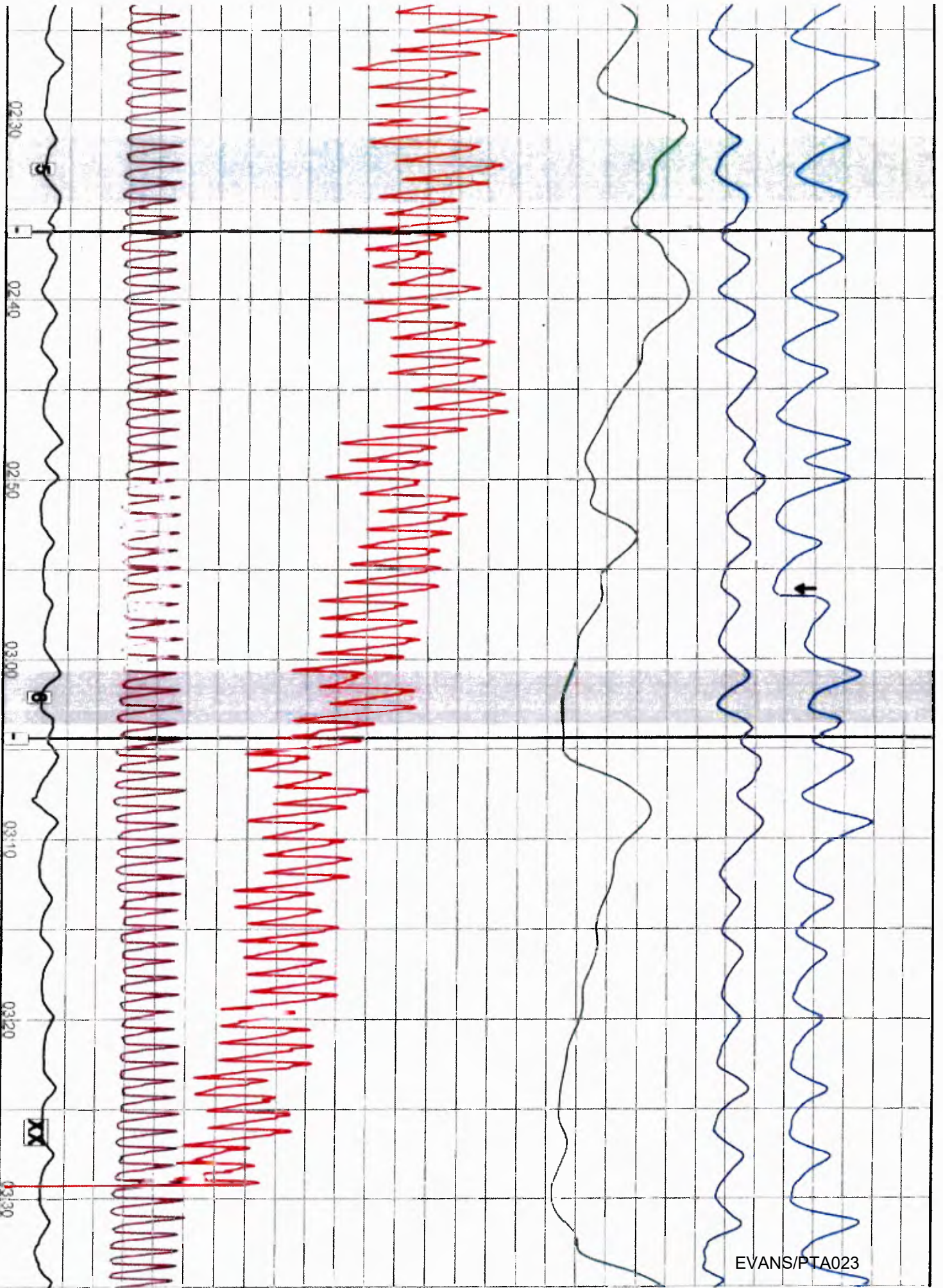


032019klb Mazda Series 1 Chart 1



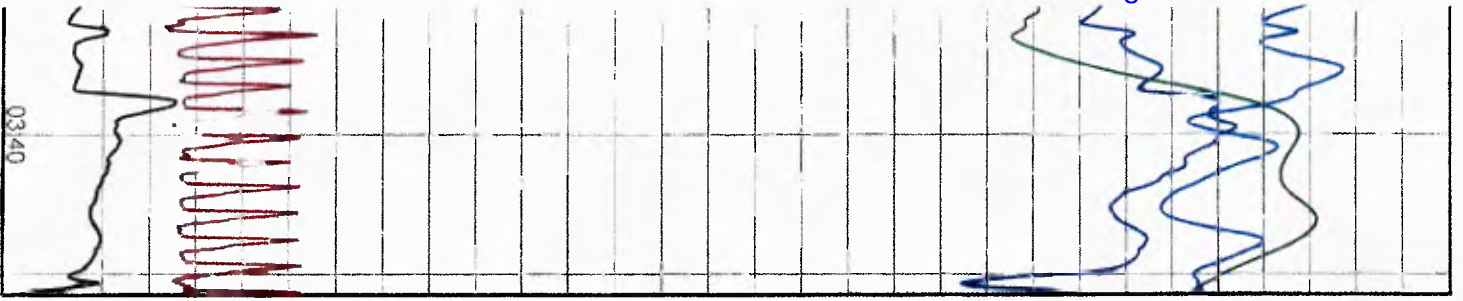
EVANS/PTA022

032019klb Mazola Series 1 Chart 1



EVANS/PTA023

032019klb Mazda Series 1 Chart 1



032019klb Mazzoia Series 1 Chart 1		Questions Asked	Page 1
ID	ER Text	Series Type: Rank Acquaintance	
1	N Did you write the number 1?		
2	N Did you write the number 2?		
3	N Did you write the number 3?		
4K	N Did you write the number 4?		
5	N Did you write the number 5?		
6	N Did you write the number 6?		

032019Klb Mazzola Series 1 Chart 2

Subject: Leonard Mazzola

Examiner: Ken Butler

Date: 3/20/2019 View Size: Normal

Time Start: 1:40:42 PM End: 1:45:50 PM Duration: 05:08

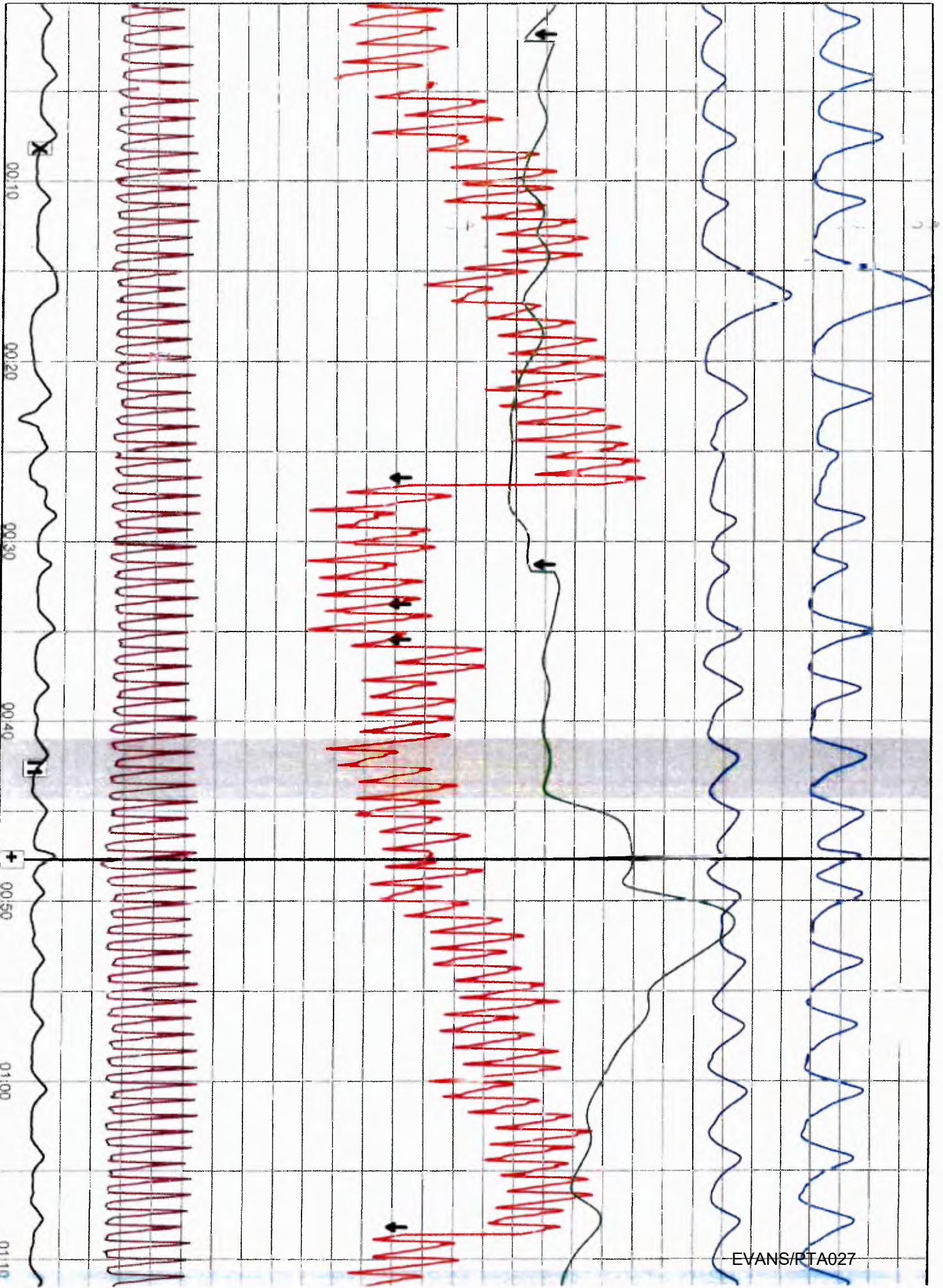
Cuff Pressure Start: 73 End: 74

Mazzola AFMGOT (MGOT)

Gain Settings:		CA	P1	P2	FE	SE	AR	EA	PL	AU
Recorded: Start		3.0	3.2	5.8	---	4.3	---	1.4	3.4	---
Recorded: End		3.0	3.2	5.8	---	4.3	---	1.4	3.4	---
Printed: Start		3.0	3.2	5.8	---	4.3	---	1.4	3.4	---
Printed: End		3.0	3.2	5.8	---	4.3	---	1.4	3.4	---
Recorded Electrodermal: Automatic										
Printed Electrodermal: Automatic										
11.8.0.402										

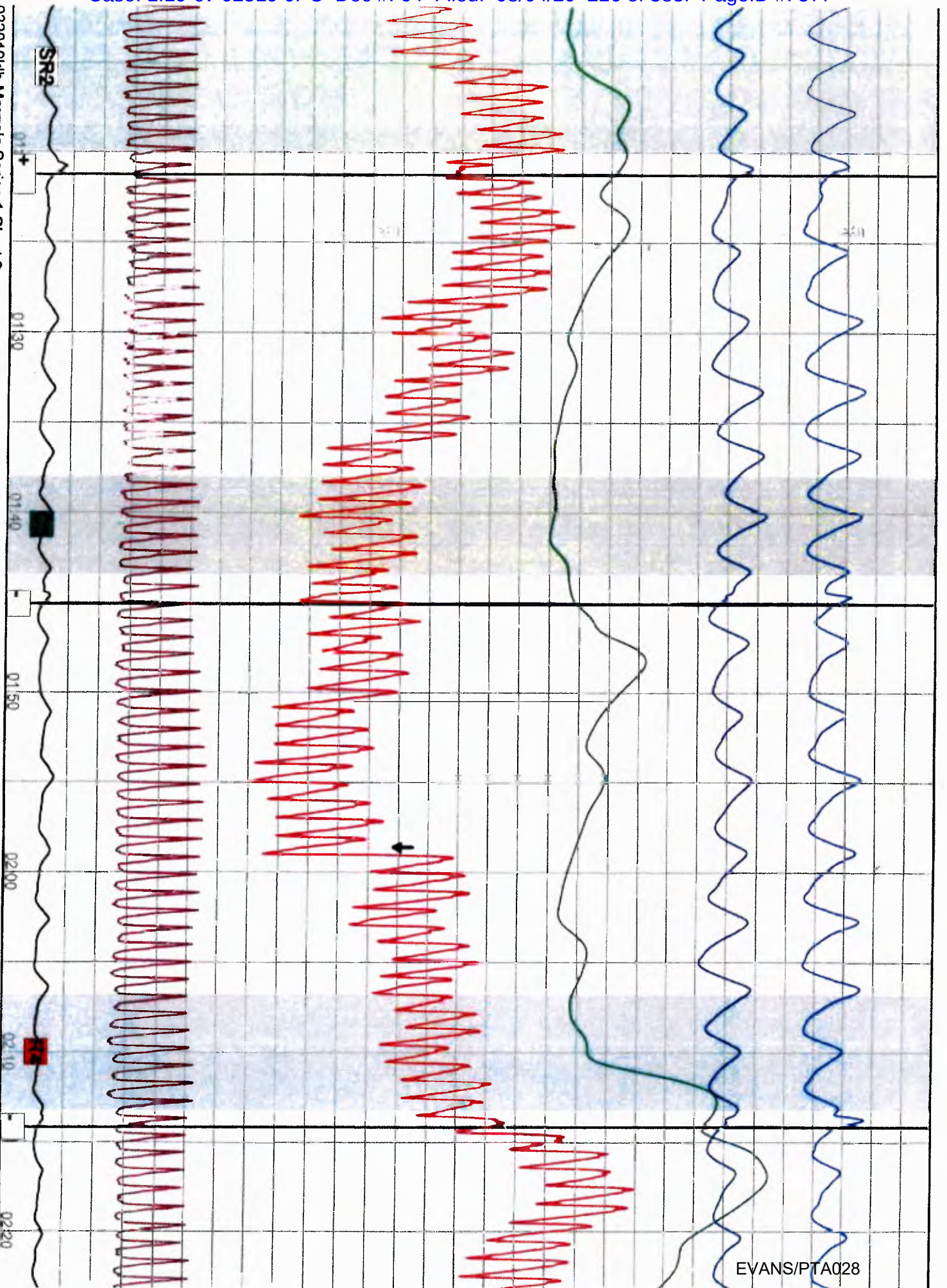
A
7
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032019Klb Mazzaola Series 1 Chart 2



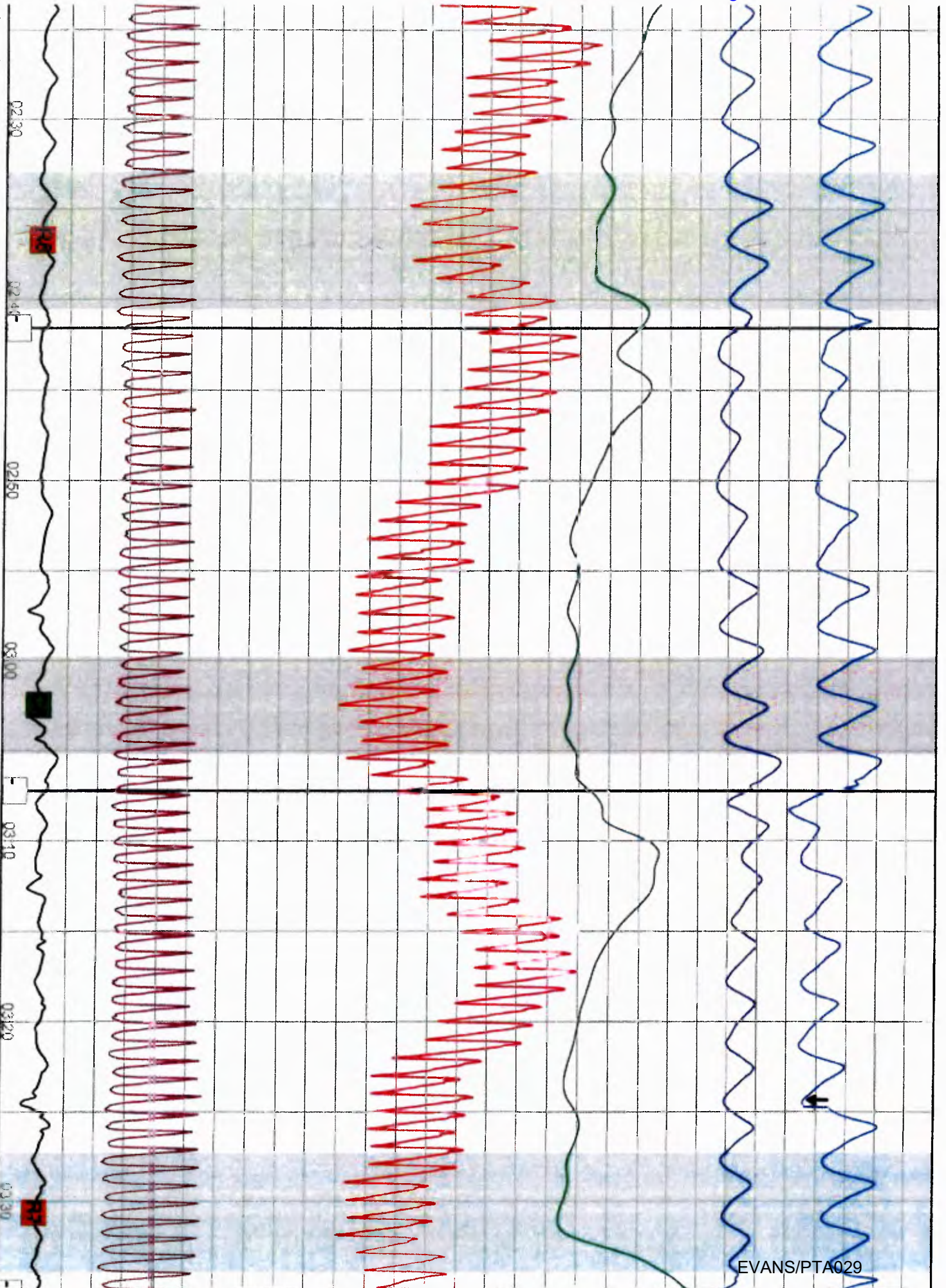
EVANS/RTA027

032019klb Mazoola Series 1 Chart 2

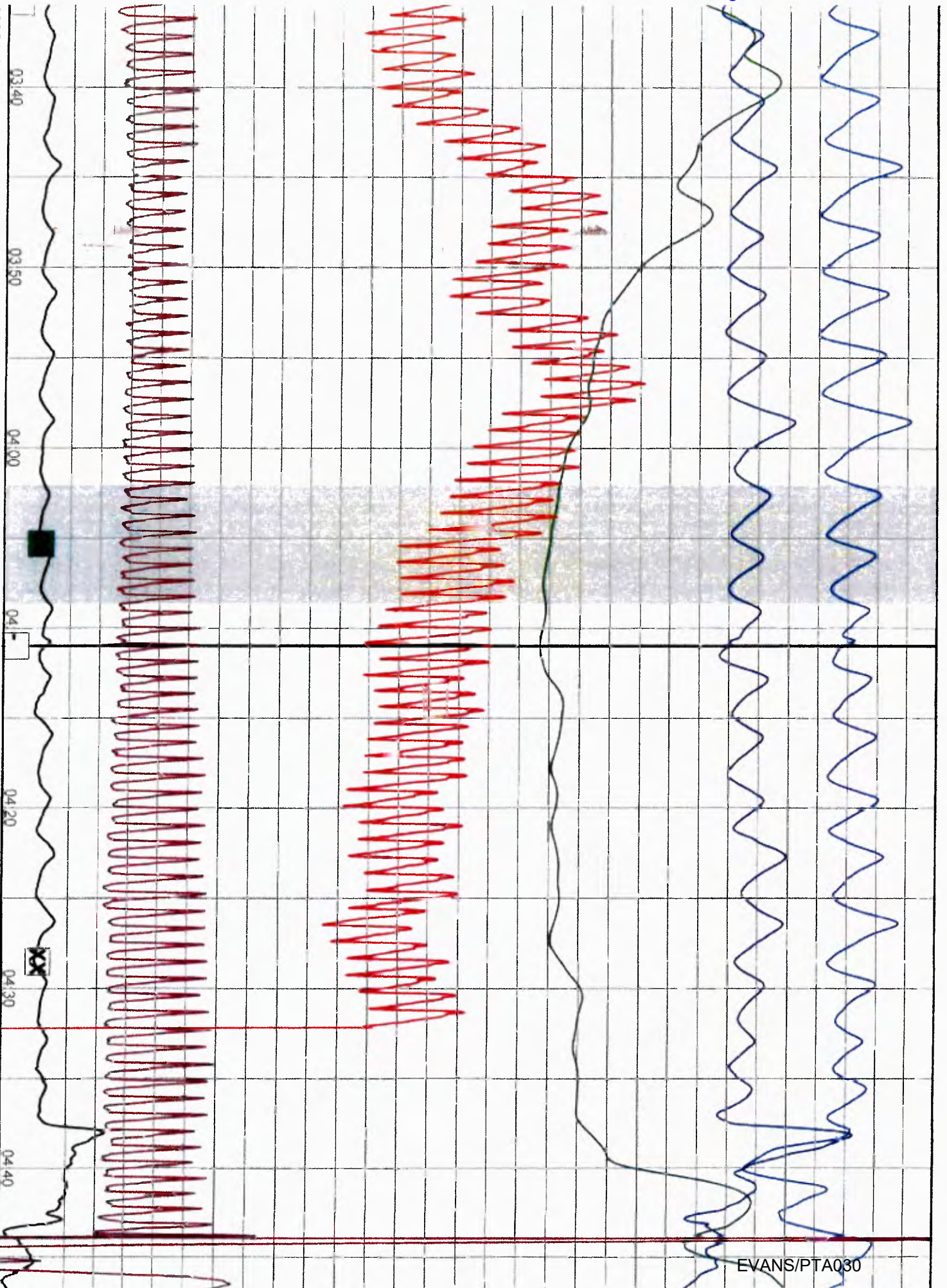


EVANS/PTA028

032019Klb Mazzoia Series 1 Chart 2

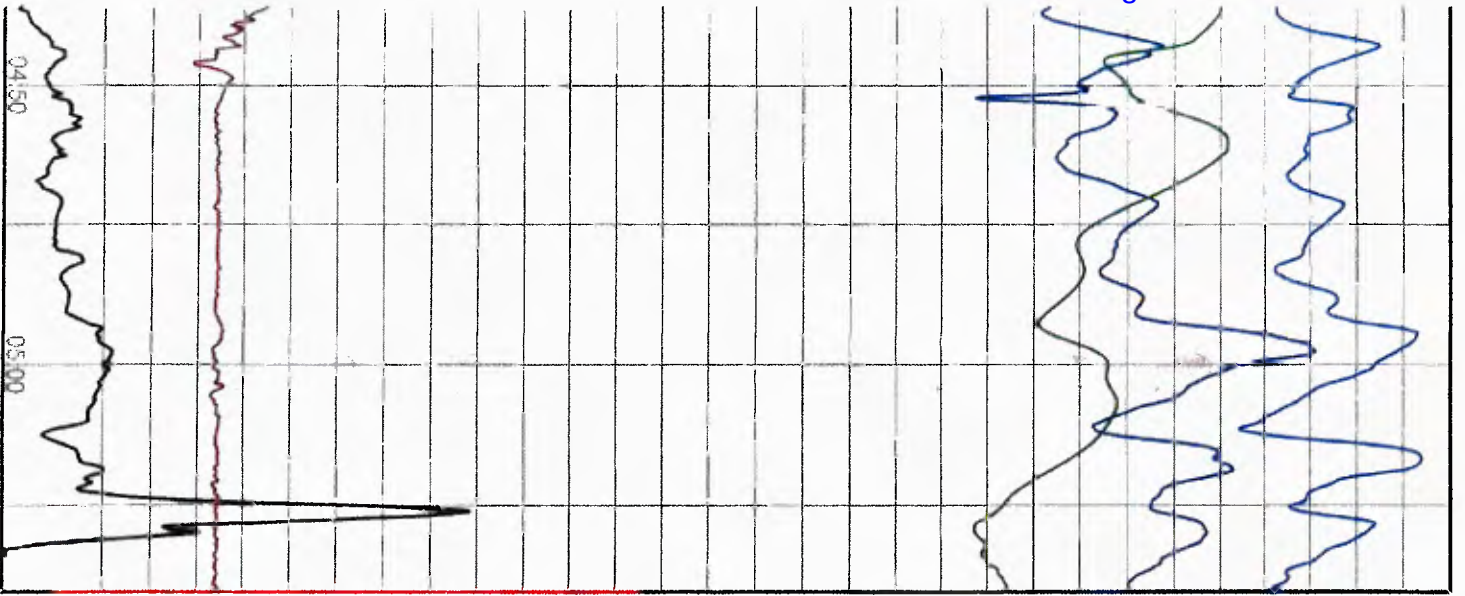


032019Klb Mazda Series 1 Chart 2



EVANS/PTA030

032019Klb Mazda Series 1 Chart 2



032019Klb Mazzaola Series 1 Chart 2

Questions Asked

Page 1

ID	ER Text	Series Type: MGQT
I1	Y Are the lights on in this room?	
SR2	Y Regarding the internal document information that was provided to the media, do you intend to answer each question truthfully?	
C3	N In your entire life, did you ever tell even one lie?	
R4	N Did you provide any information contained in those documents to the media?	
R5	N Do you know for sure, who provided information contained in those documents to the media?	
C6	N In your entire life, did you ever violate a law?	
R7	N Did you help provide information contained in those documents to the media?	
C8	N In your entire life, did you ever do anything that was dishonest?	

EVANS/PTA032

032019klb Mazzola Series 1 Chart 3

Subject: Leonard Mazzola

Examiner: Ken Butler

Date: 3/20/2019 View Size: Normal

Time Start: 1:48:42 PM End: 1:54:26 PM Duration: 05:44

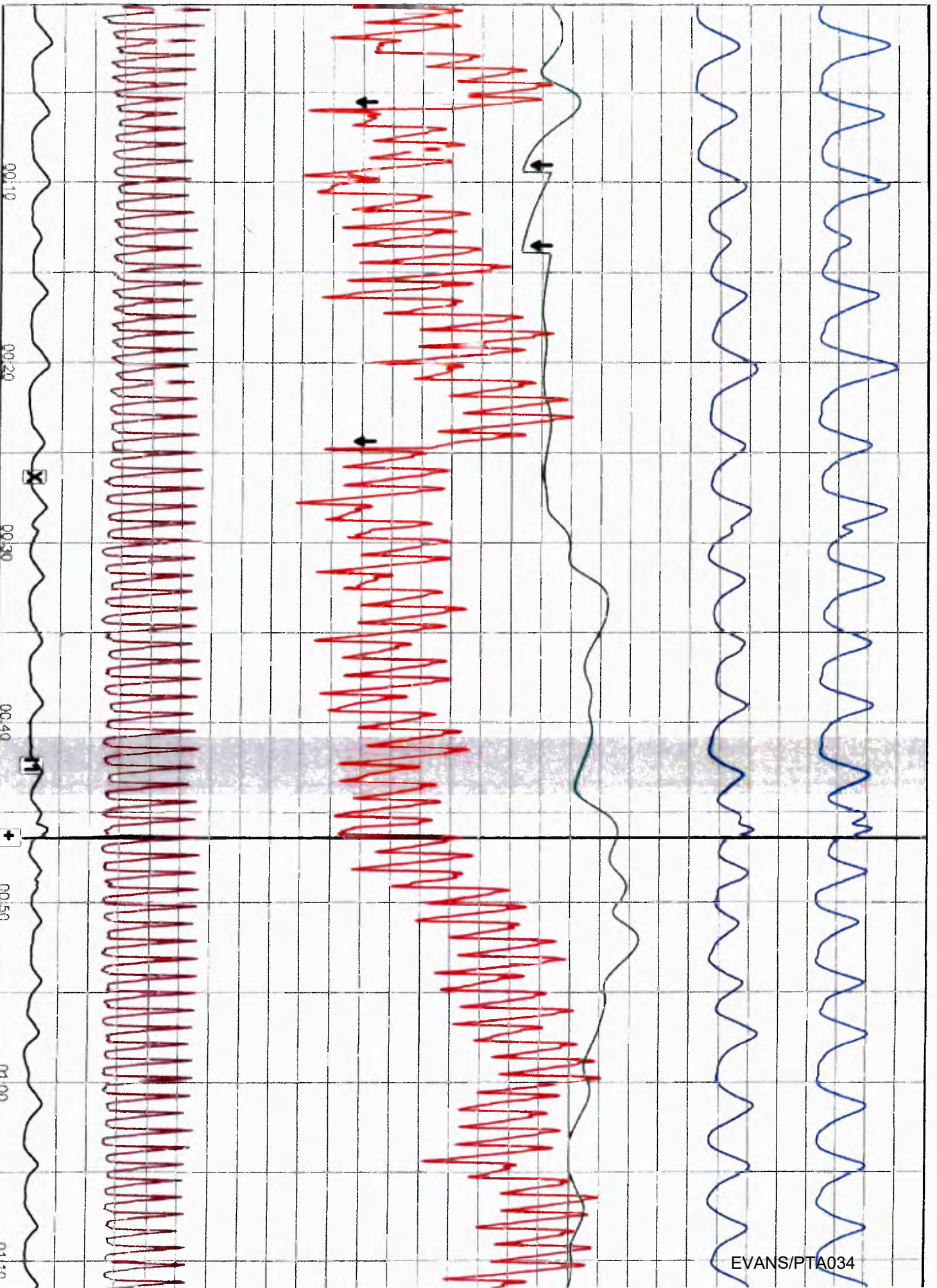
Cuff Pressure Start: 71 End: 68

Mazzola AFMGQT (MGQT)

Gain Settings:	CA	P1	P2	FE	SE	AR	EA	PL	AU
Recorded: Start	3.7	3.2	6.4	---	4.3	---	1.4	3.2	---
Recorded: End	3.7	3.2	6.4	---	4.3	---	1.4	3.2	---
Printed: Start	3.7	3.2	6.4	---	4.3	---	1.4	3.2	---
Printed: End	3.7	3.2	6.4	---	4.3	---	1.4	3.2	---
Recorded Electrodermal: Automatic									
Printed Electrodermal: Automatic									

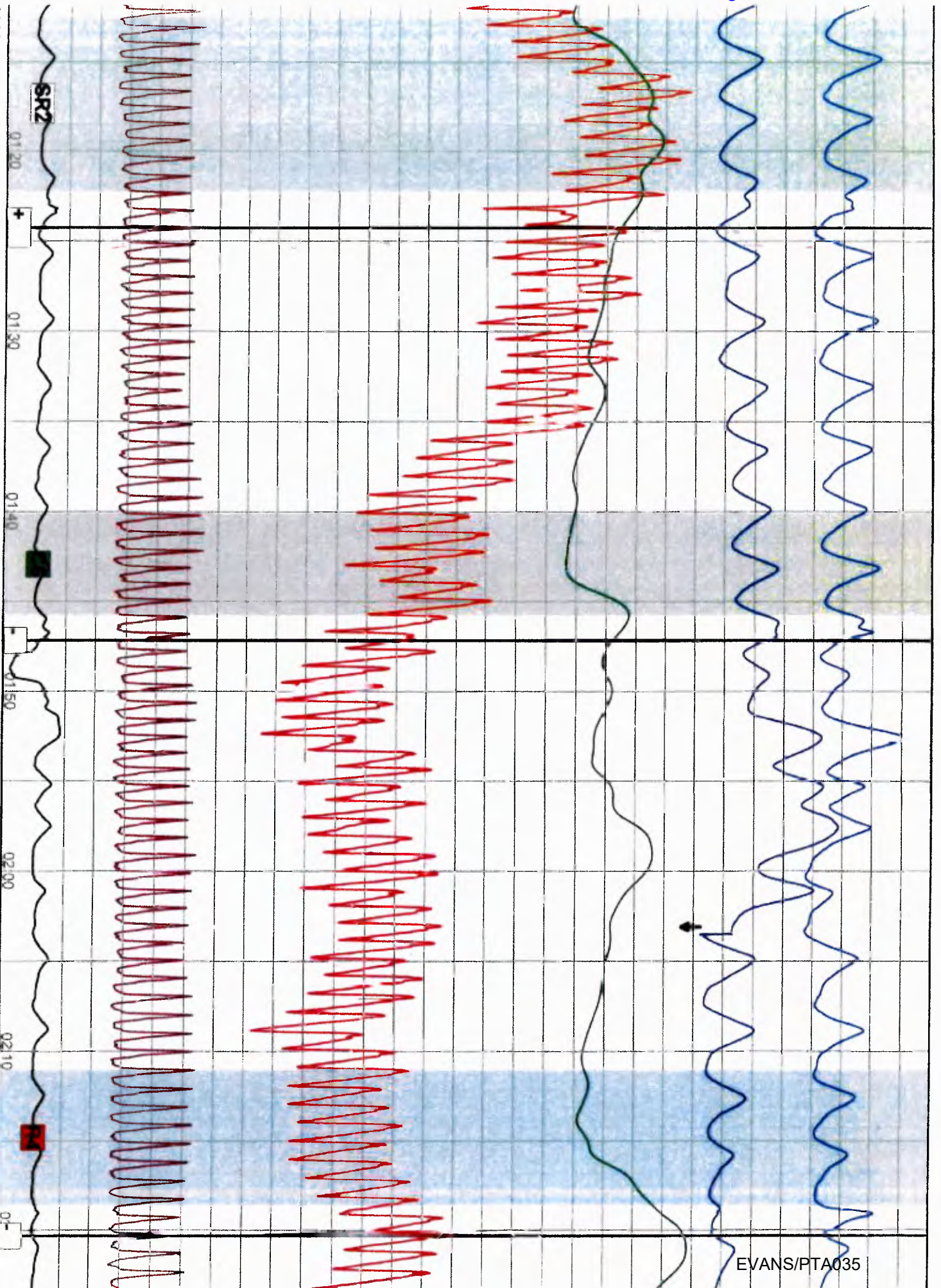
11.8.0.402

032019Klb Mazzoia Series 1 Chart 3

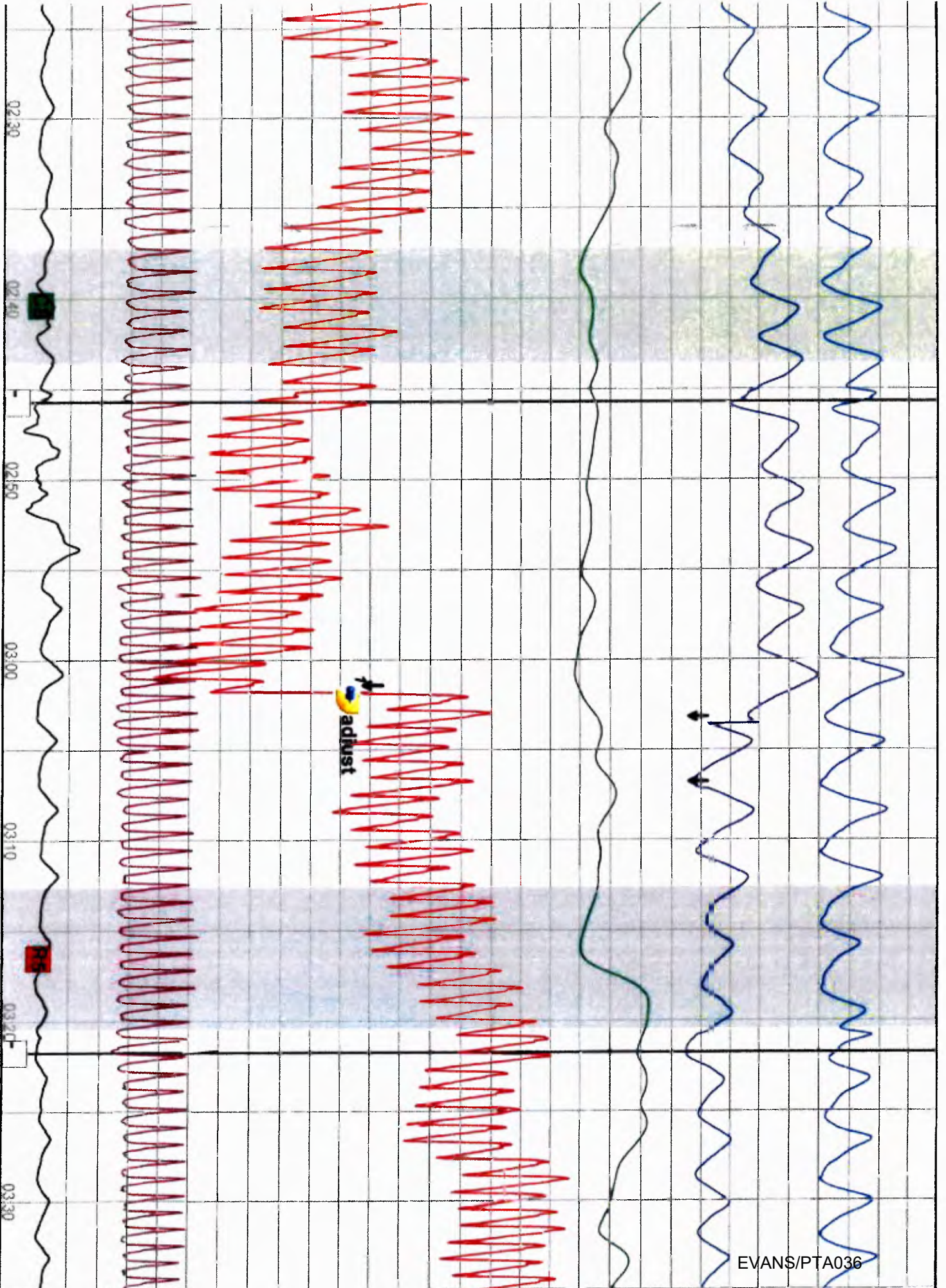


EVANS/PTA034

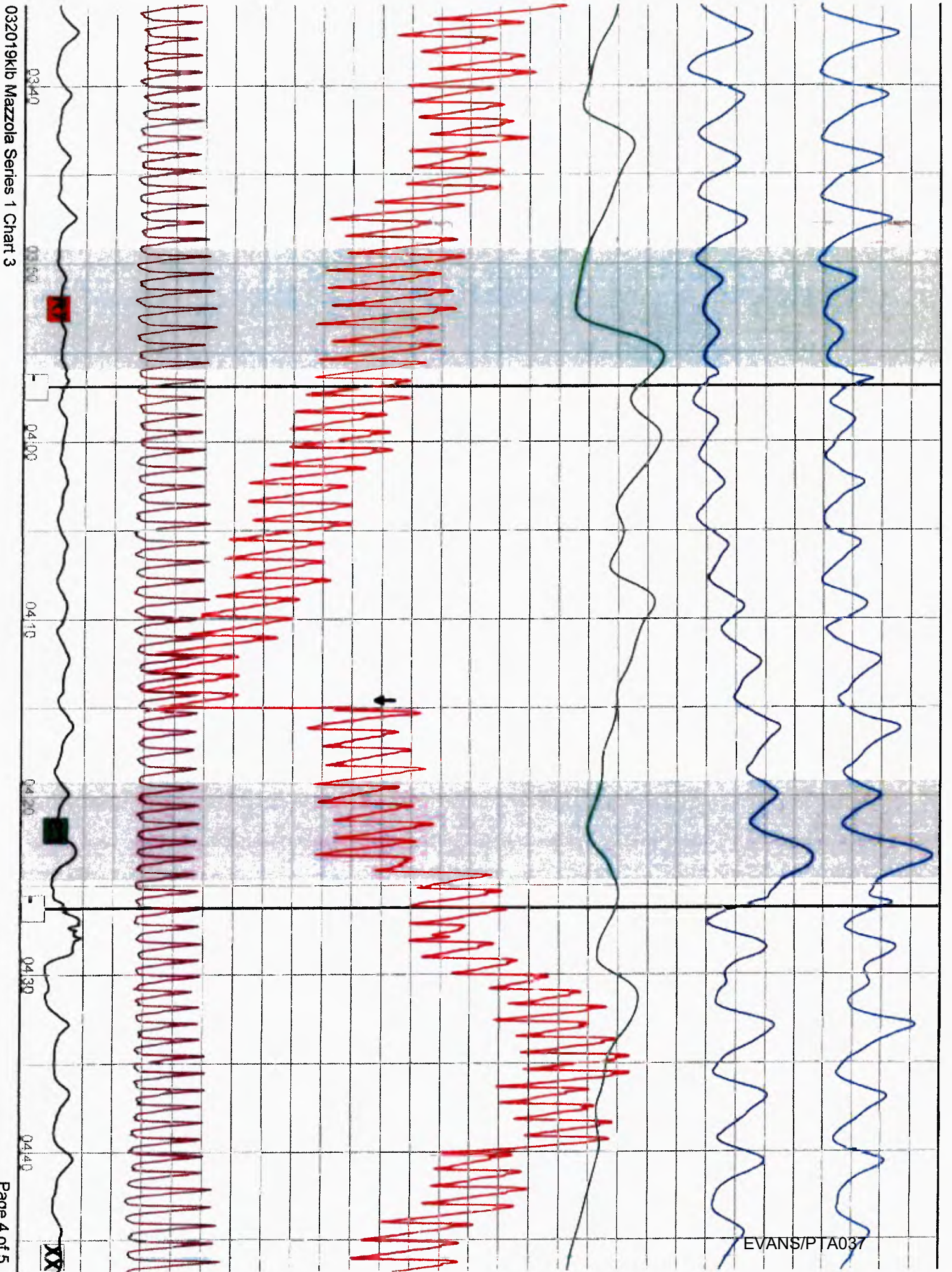
032019Klb Mazza Series 1 Chart 3



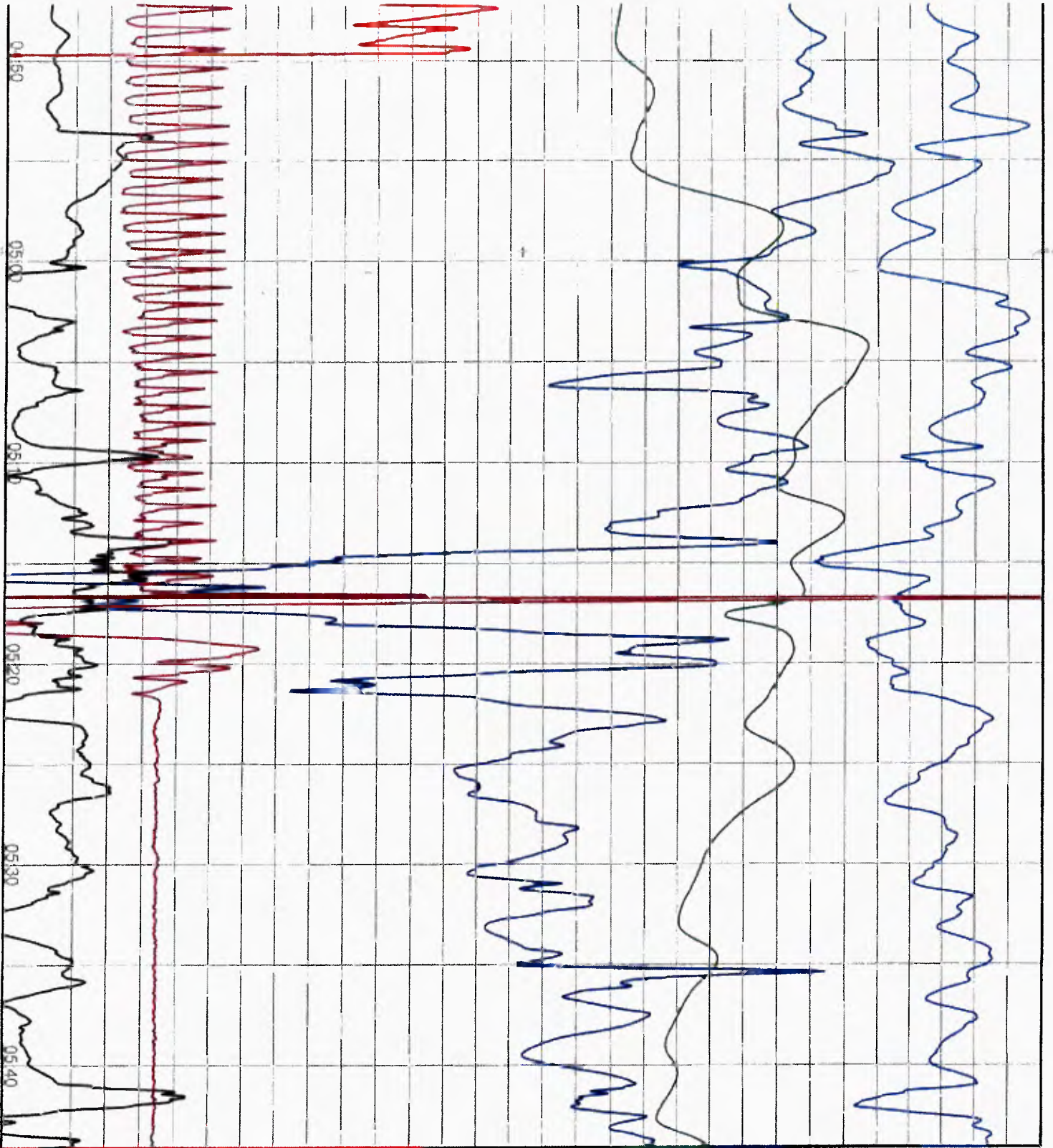
032019Klb Mazzoia Series 1 Chart 3



EVANS/PTA036



032019klb Mazda Series 1 Chart 3



032019klb Mazzola Series 1 Chart 3

Questions Asked

Page 1

ID	ER Text	Series Type: MGQT
I1	Y Are the lights on in this room?	
SR2	Y Regarding the internal document information that was provided to the media, do you intend to answer each question truthfully?	
C6	N In your entire life, did you ever violate a law?	
R4	N Did you provide any information contained in those documents to the media?	
C8	N In your entire life, did you ever do anything that was dishonest?	
R5	N Do you know for sure, who provided information contained in those documents to the media?	
R7	N Did you help provide information contained in those documents to the media?	
C3	N In your entire life, did you ever tell even one lie?	

EVANS/PTA039

032019k1b Mazzola Series 1 Chart 4

Subject: Leonard Mazzola

Examiner: Ken Butler

Date: 3/20/2019 View Size: Normal

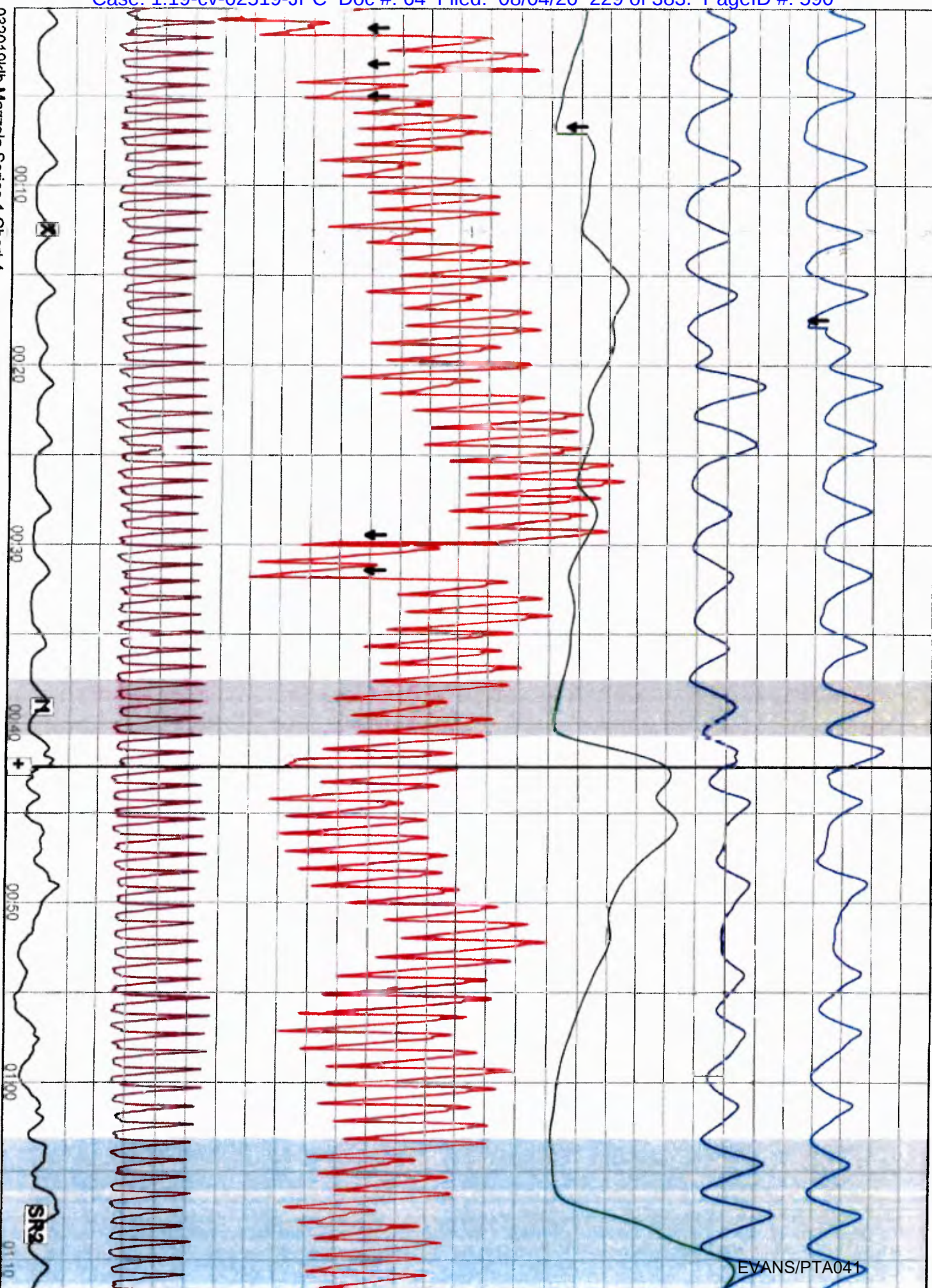
Time Start: 1:58:08 PM End: 2:03:38 PM Duration: 05:30

Cuff Pressure Start: 75 End: 72

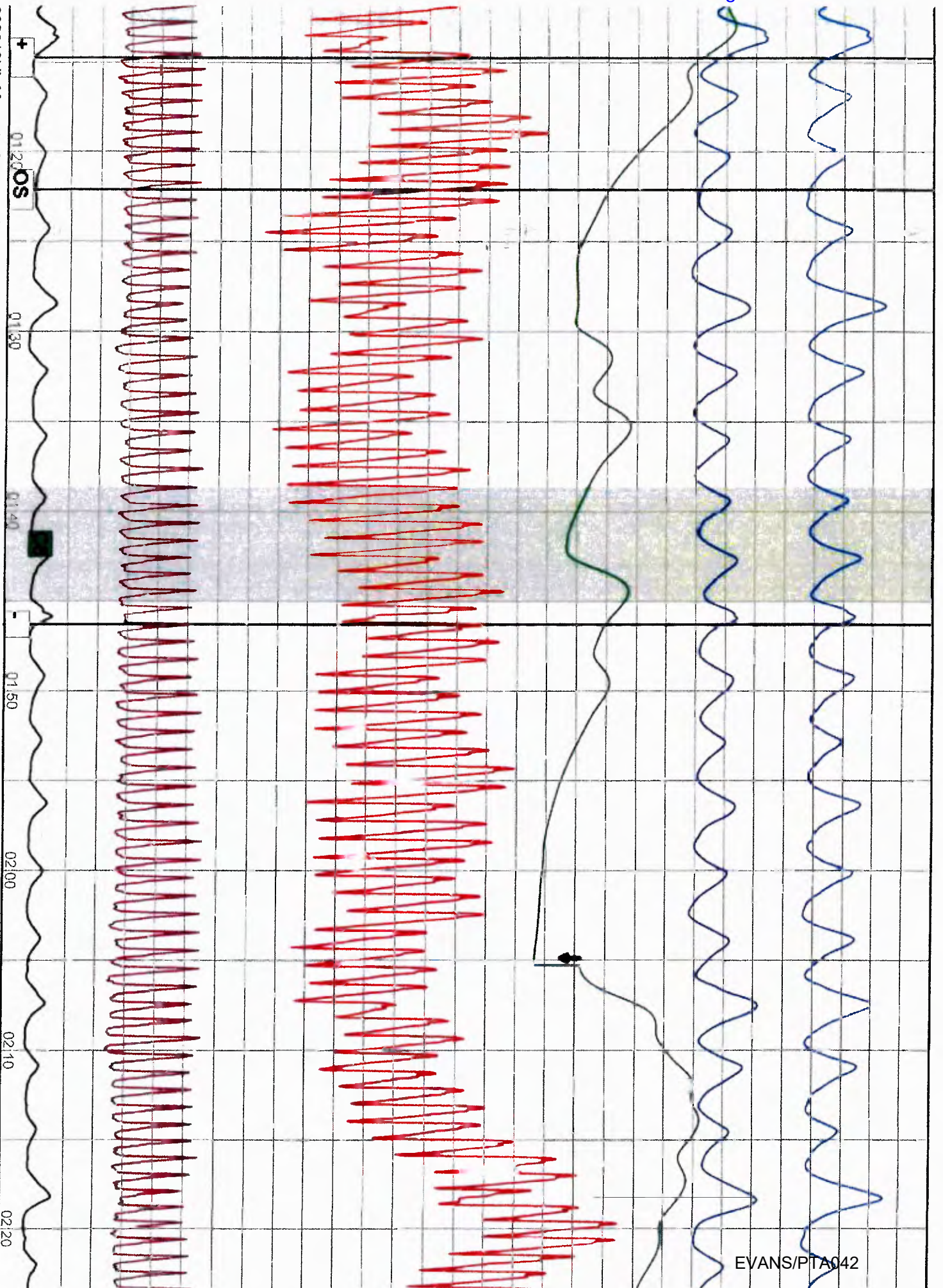
Mazzola AFMGQT (MGQT)

Gain Settings:	CA	P1	P2	FE	SE	AR	EA	PL	AU
Recorded: Start	3.7	3.2	6.4	---	4.7	---	1.4	3.8	---
Recorded: End	3.7	3.2	6.4	---	4.7	---	1.4	3.8	---
Printed: Start	3.7	3.2	6.4	---	4.7	---	1.4	3.8	---
Printed: End	3.7	3.2	6.4	---	4.7	---	1.4	3.8	---
Recorded Electrodermal: Automatic									
Printed Electrodermal: Automatic									
11.8.0.402									

032019kb Mazzoia Series 1 Chart 4

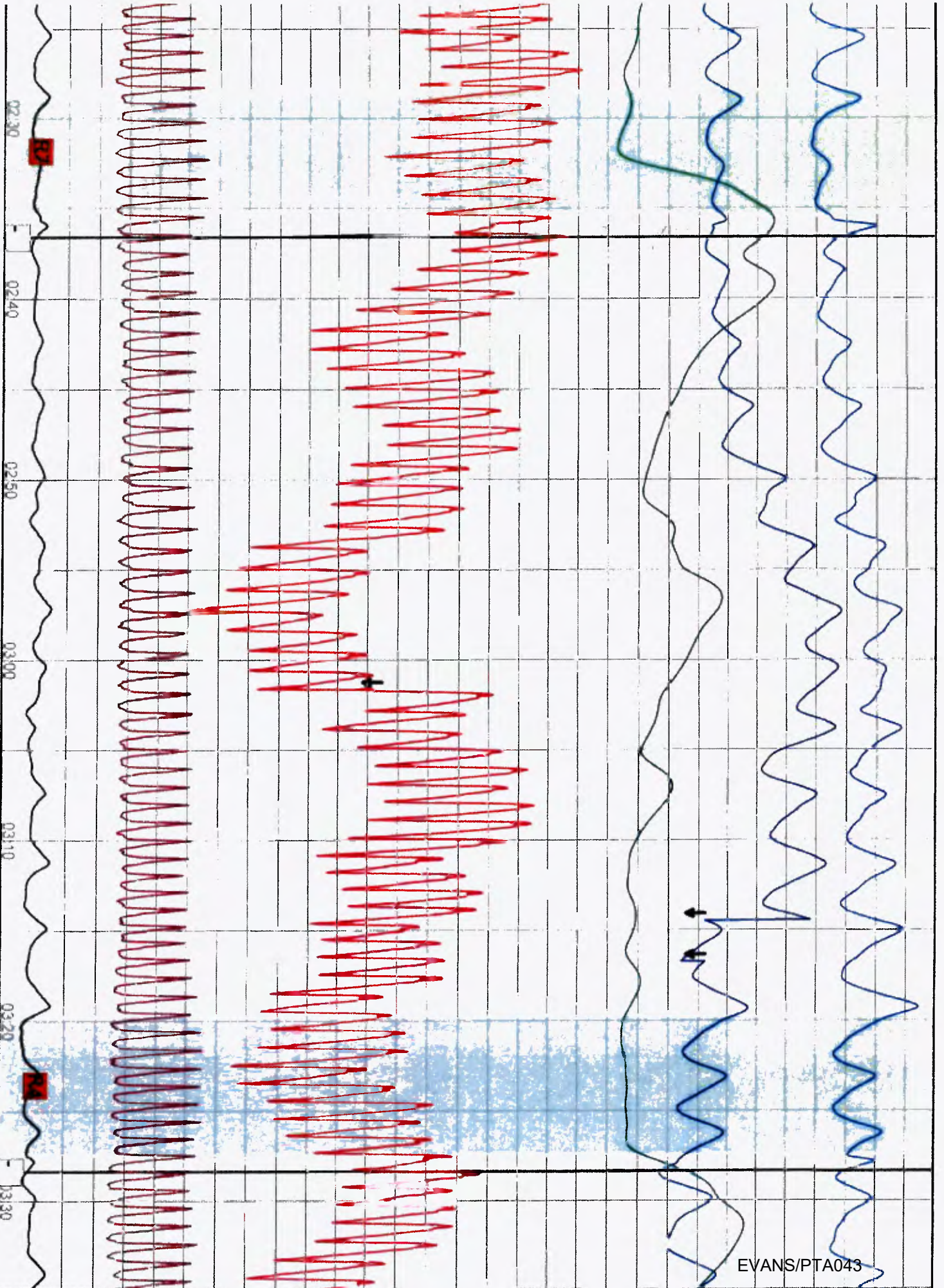


032019Klb Mazzoia Series 1 Chart 4



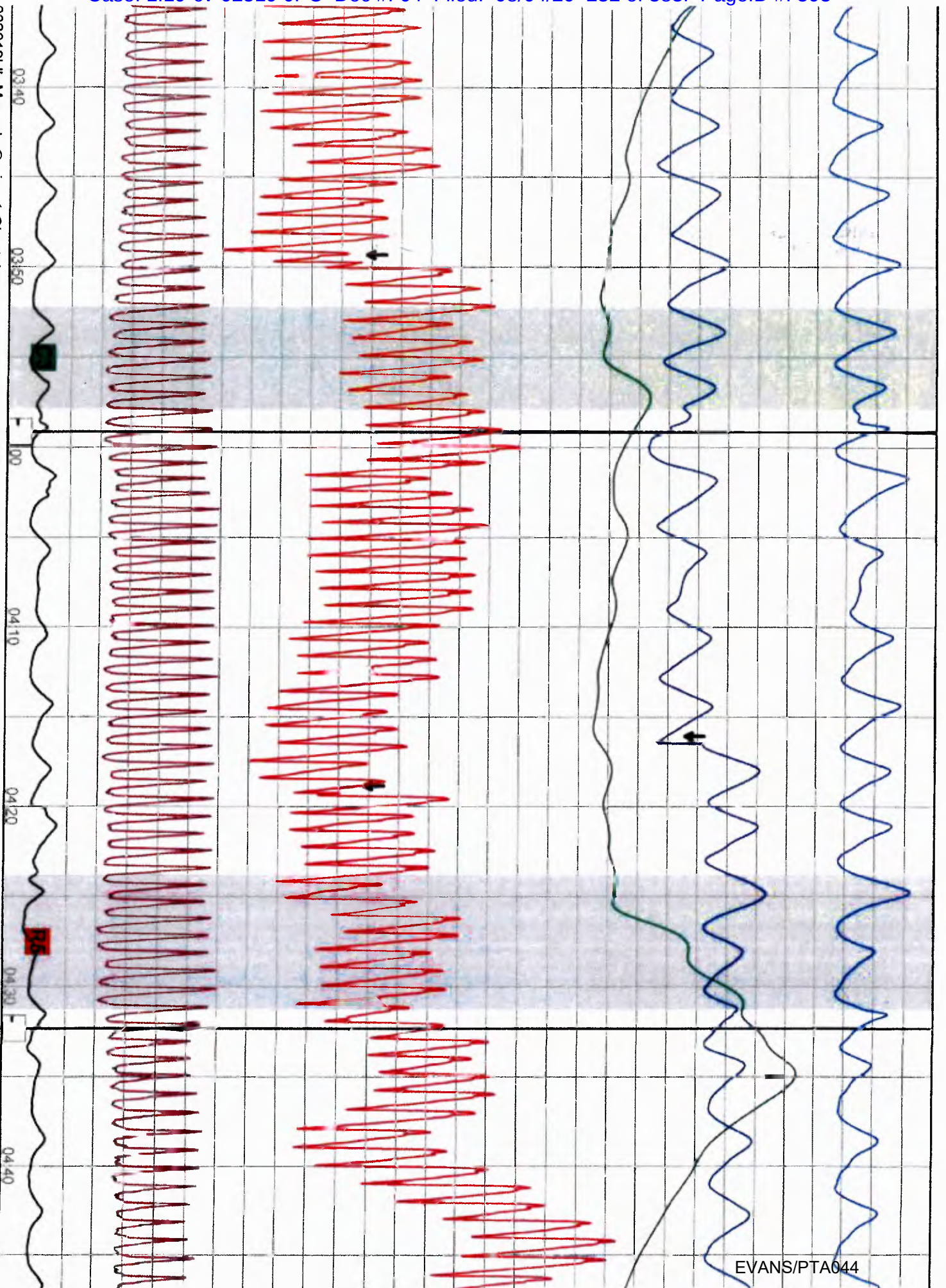
EVANS/PTA042

032019klb Mazzoia Series 1 Chart 4

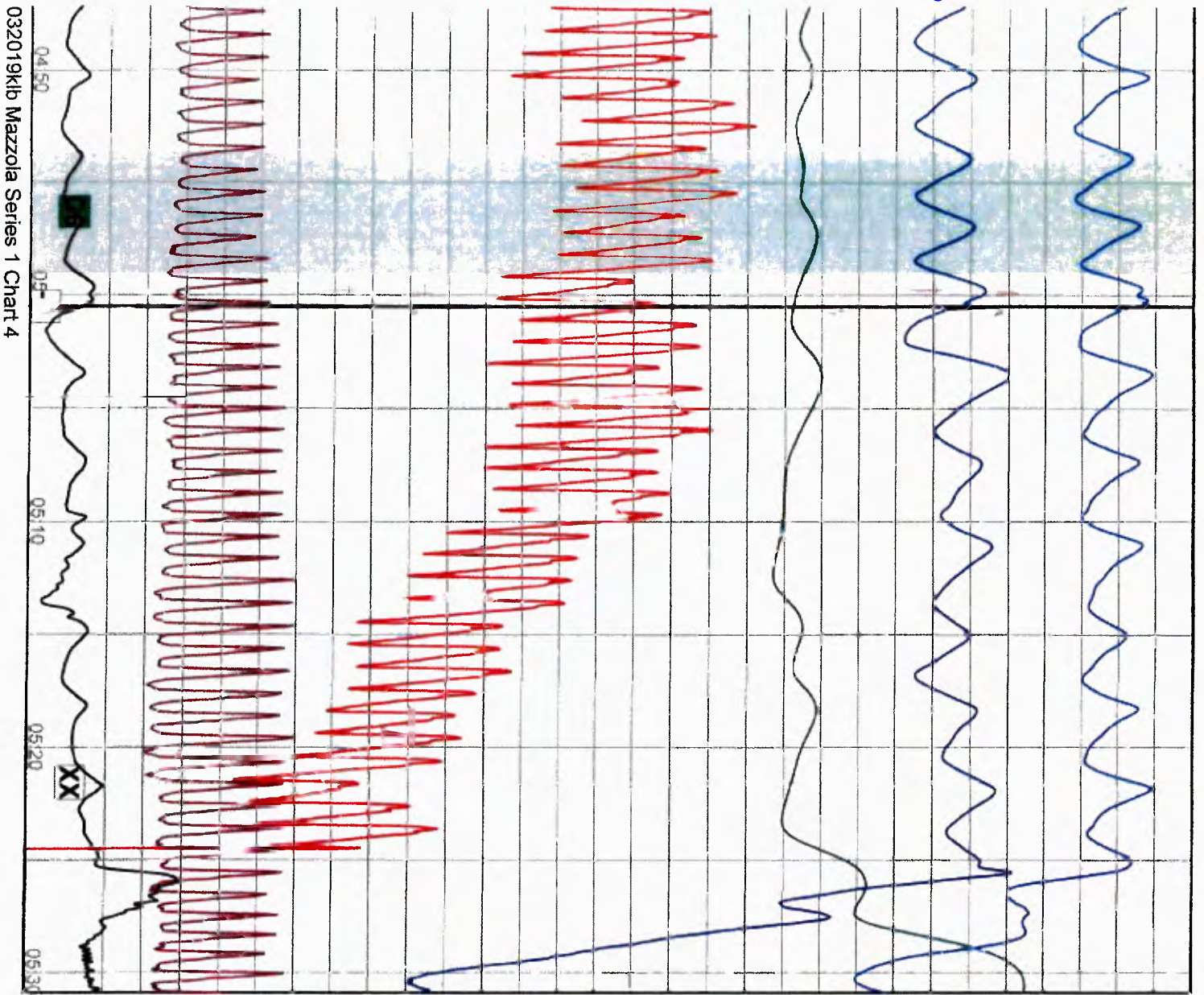


EVANS/PTA043

032019.klb Mazda Series 1 Chart 4



EVANS/PTA044



032019klb Mazzola Series 1 Chart 4

Questions Asked

Page 1

ID	ER Text	Series Type: MGQT
I1	Y Are the lights on in this room?	
SR2	Y Regarding the internal document information that was provided to the media, do you intend to answer each question truthfully?	
C8	N In your entire life, did you ever do anything that was dishonest?	
R7	N Did you help provide information contained in those documents to the media?	
R4	N Did you provide any information contained in those documents to the media?	
C3	N In your entire life, did you ever tell even one lie?	
R5	N Do you know for sure, who provided information contained in those documents to the media?	
C6	N In your entire life, did you ever violate a law?	

EVANS/PTA046

032019klb Mazzola Series 1 Chart 5

Subject: Leonard Mazzola

Examiner: Ken Butler

Date: 3/20/2019 View Size: Normal

Time Start: 2:09:00 PM End: 2:13:58 PM Duration: 04:58

Cuff Pressure Start: 76 End: 72

Mazzola AFMGQT (MGQT)

Gain Settings:

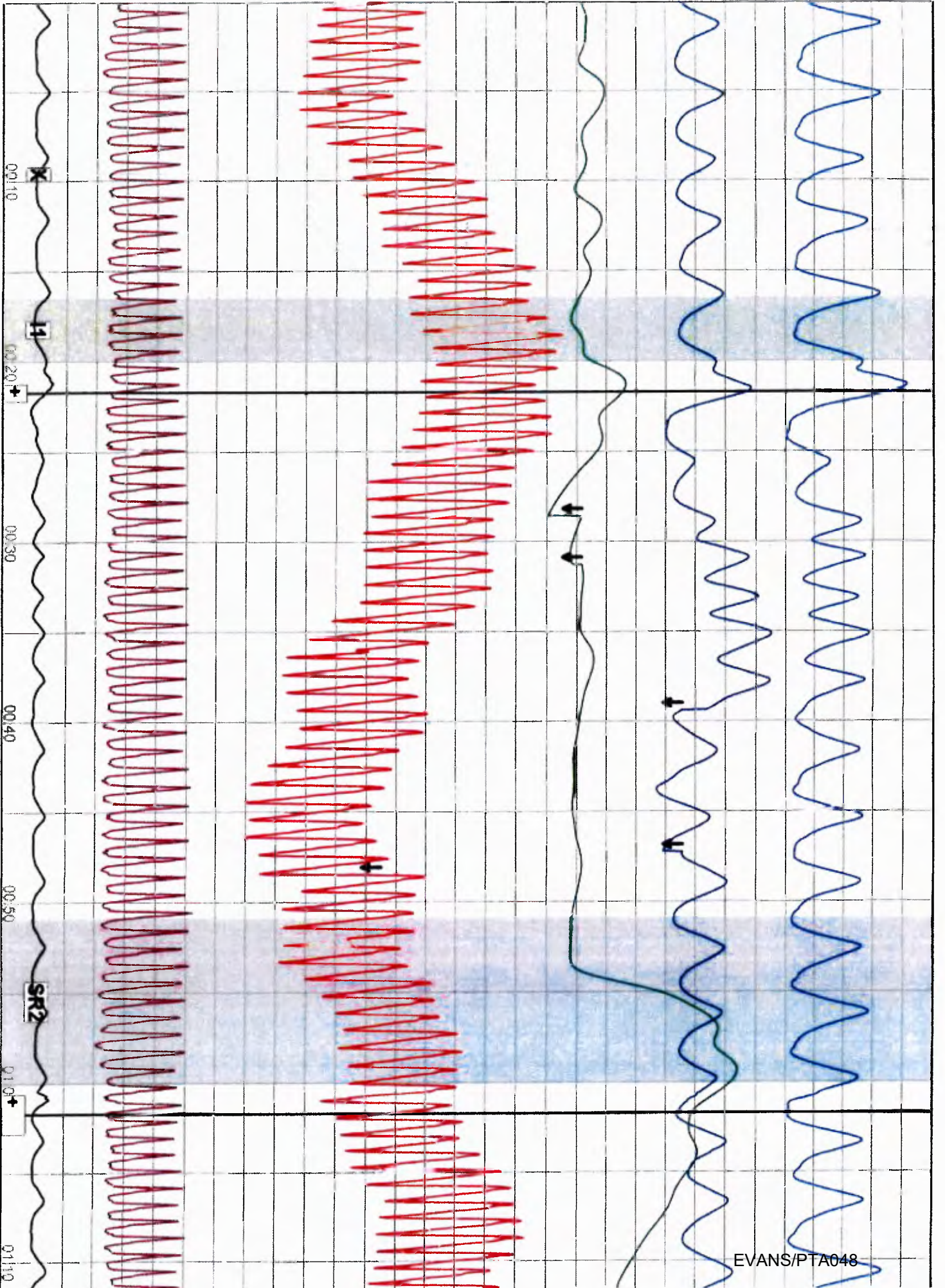
	CA	P1	P2	FE	SE	AR	EA	PL	AU
Recorded: Start	3.7	3.2	6.4	---	4.7	---	1.7	4.0	---
Recorded: End	3.7	3.2	6.4	---	4.7	---	1.7	4.0	---
Printed: Start	3.7	3.2	6.4	---	4.7	---	1.7	4.0	---
Printed: End	3.7	3.2	6.4	---	4.7	---	1.7	4.0	---

Recorded Electrodermal: Automatic

Printed Electrodermal: Automatic

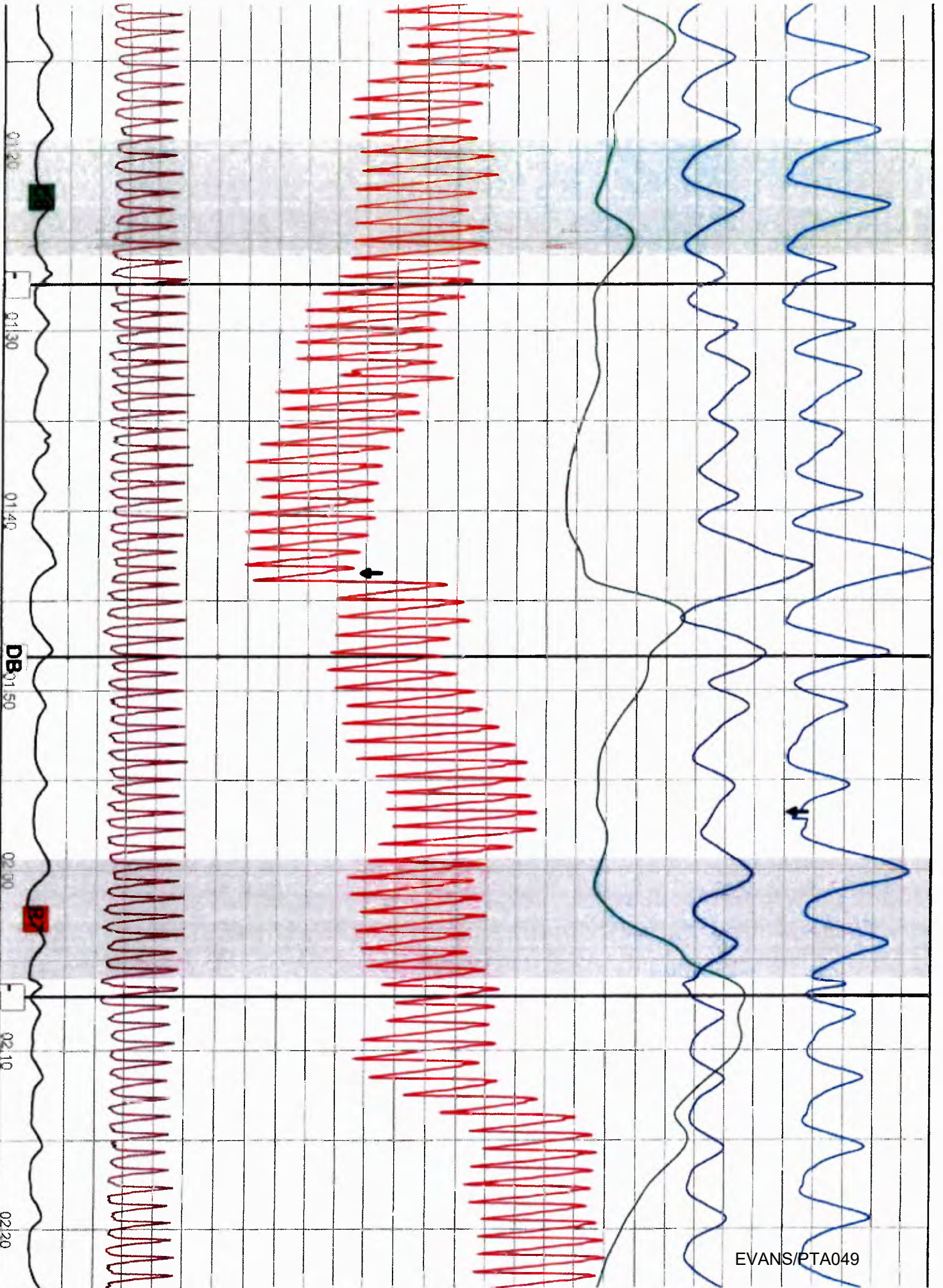
11.8.0.402

032019kb Mazzoia Series 1 Chart 5



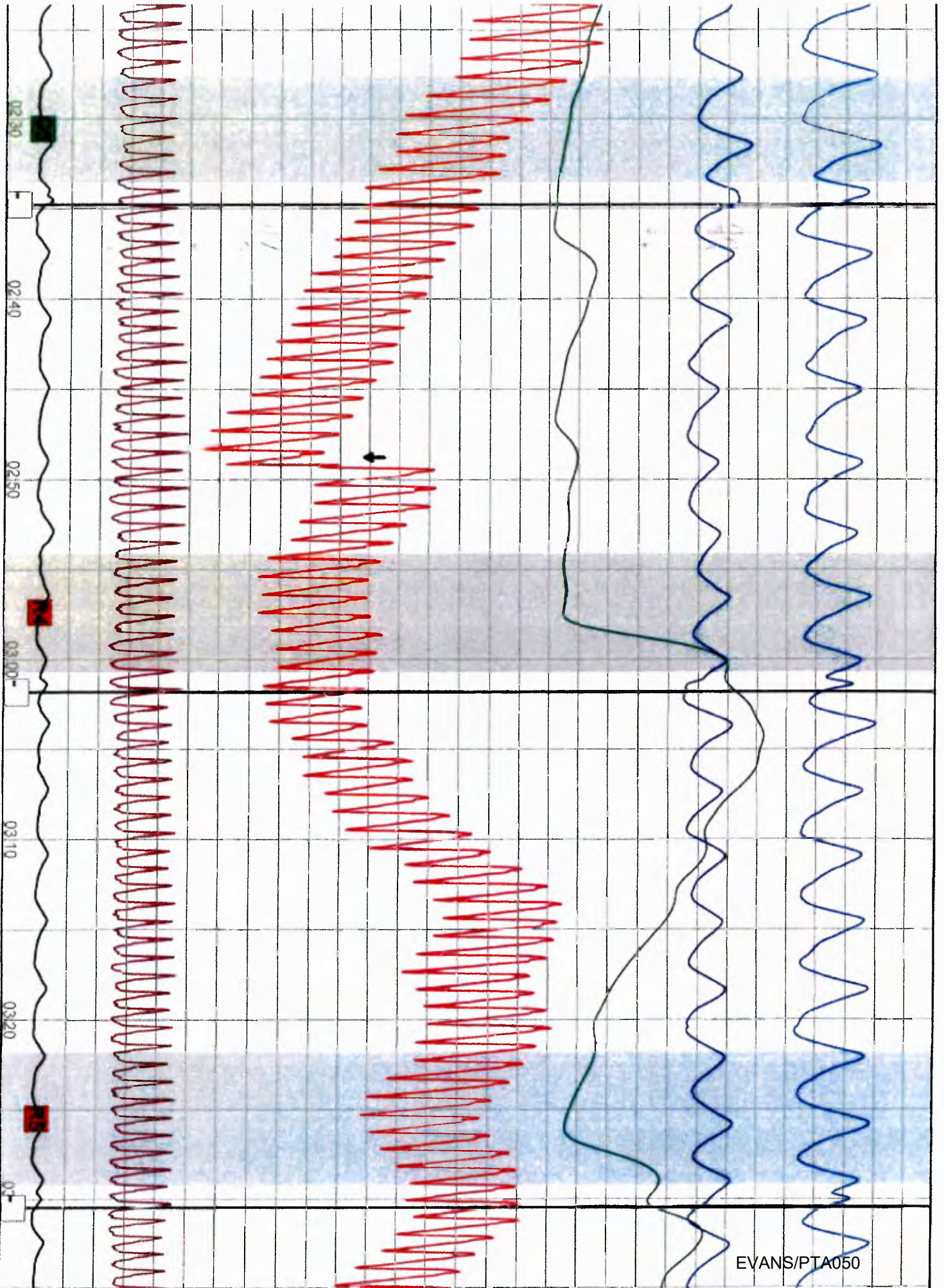
EVANS/PTA048

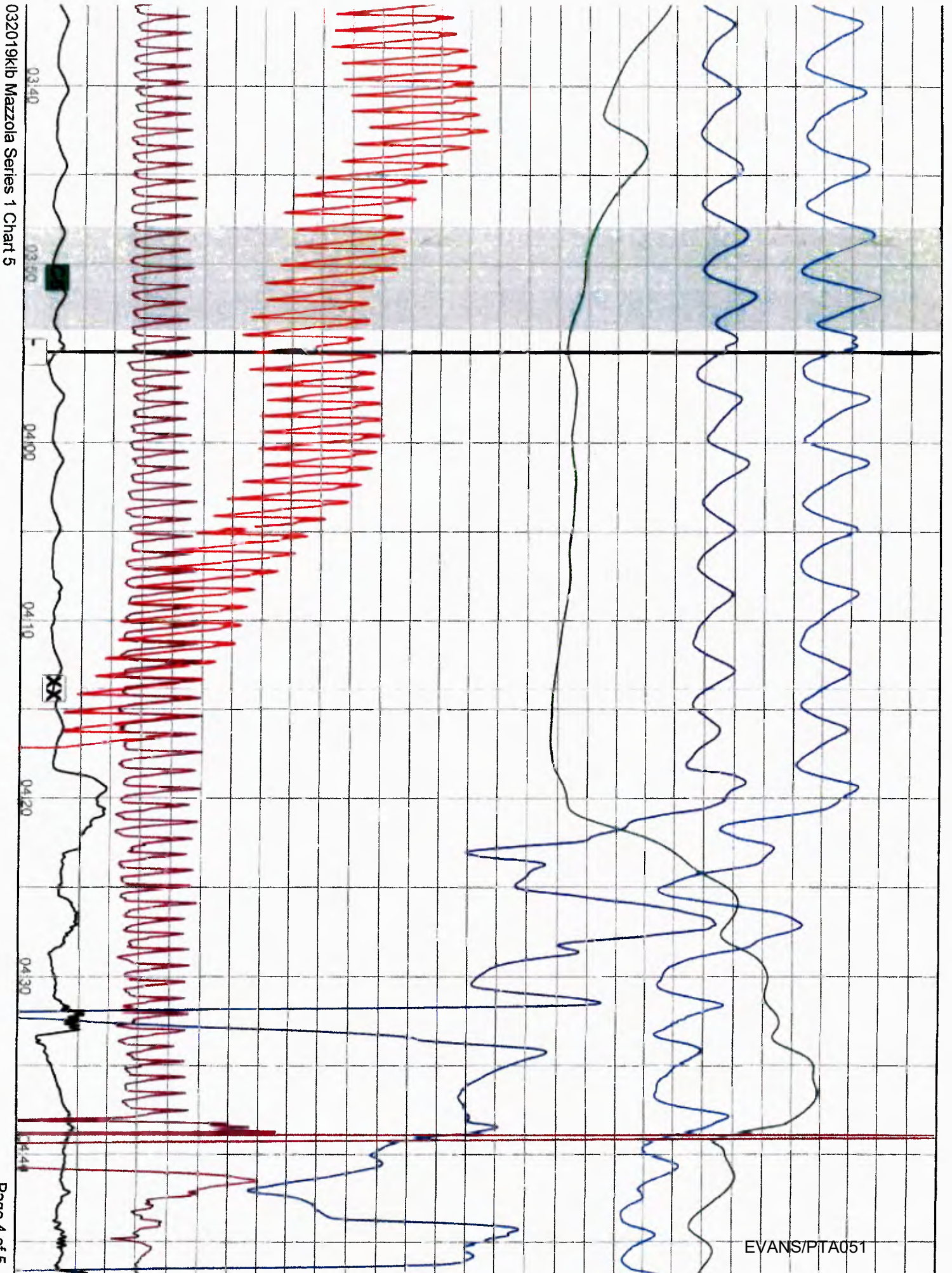
032019.klb Mazzola Series 1 Chart 5



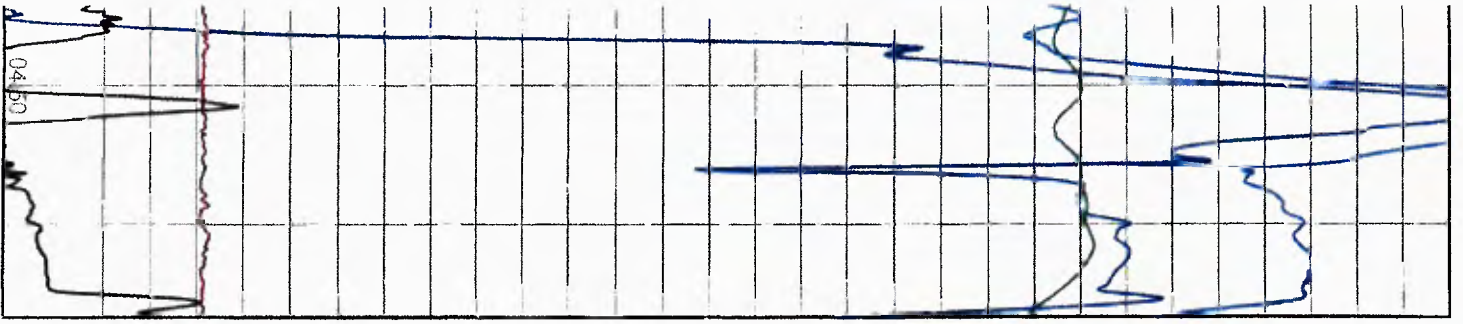
EVANS/PTA049

032019klb Mazzaola Series 1 Chart 5





032019klb Mazzoia Series 1 Chart 5



032019klb Mazzola Series 1 Chart 5

Questions Asked

Page 1

ID	ER Text	Series Type: MGQT
I1	Y Are the lights on in this room?	
SR2	Y Regarding the internal document information that was provided to the media, do you intend to answer each question truthfully?	
C8	N In your entire life, did you ever do anything that was dishonest?	
R7	N Did you help provide information contained in those documents to the media?	
C3	N In your entire life, did you ever tell even one lie?	
R4	N Did you provide any information contained in those documents to the media?	
R5	N Do you know for sure, who provided information contained in those documents to the media?	
C6	N In your entire life, did you ever violate a law?	

EVANS/PTA053

032019klb Mazzola Series 1 Chart 6

Subject: Leonard Mazzola

Examiner: Ken Butler

Date: 3/20/2019 View Size: Normal

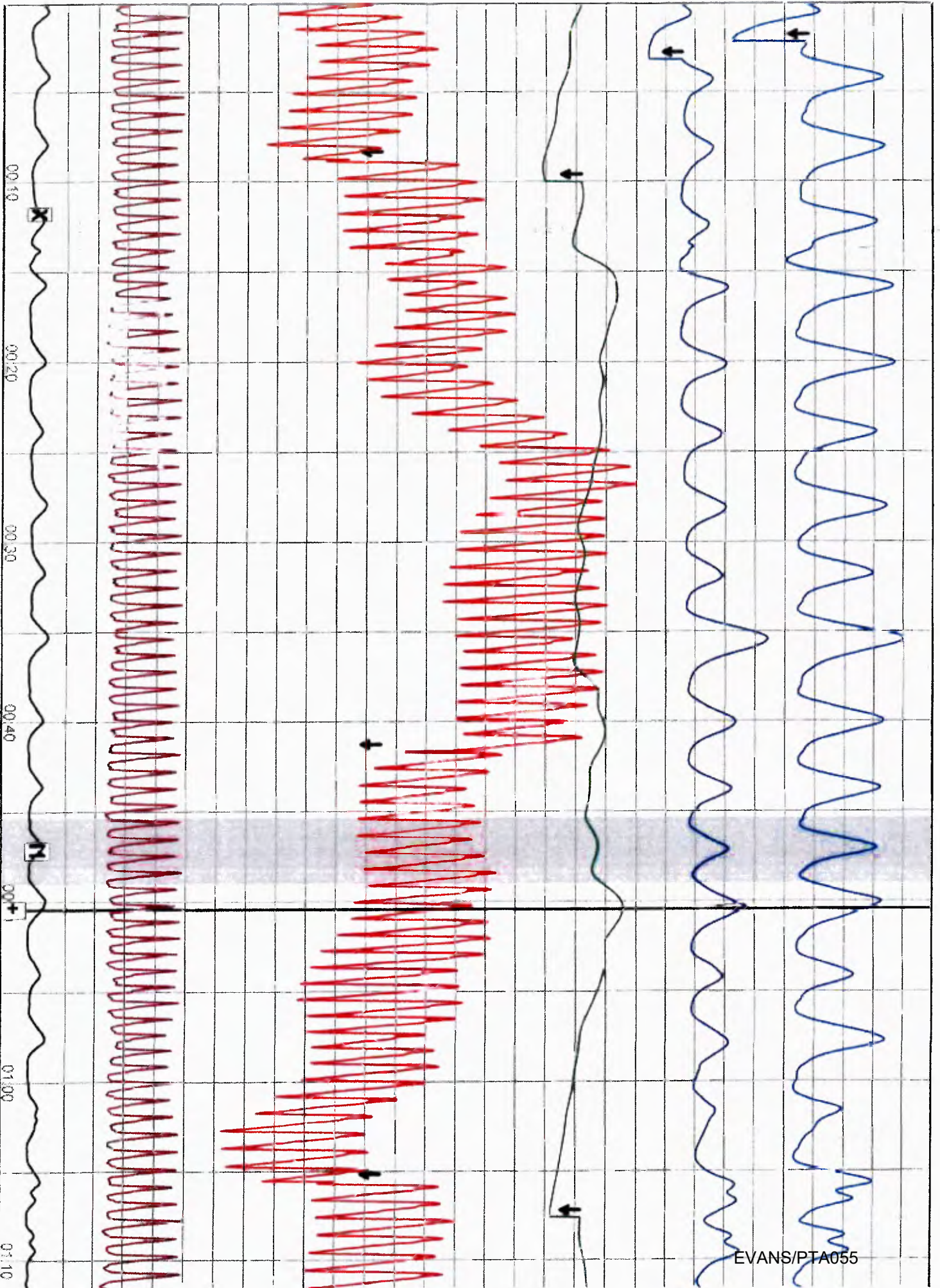
Time Start: 2:15:37 PM End: 2:18:13 PM Duration: 02:36

Cuff Pressure Start: 76 End: 0

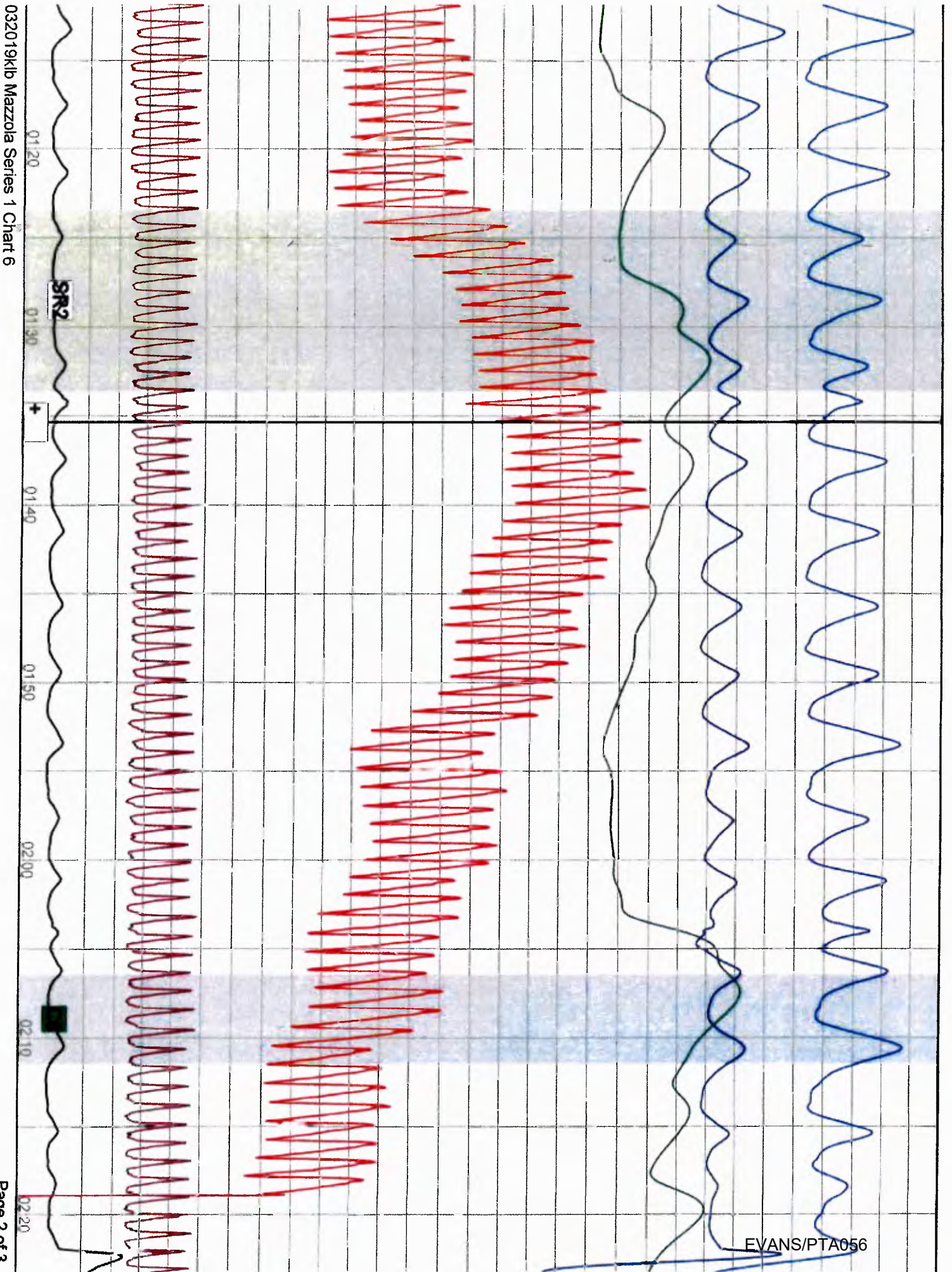
Mazzola AFMGQT (MGQT)

Gain Settings:	CA	P1	P2	FE	SE	AR	EA	PL	AU
Recorded: Start	3.7	3.2	6.6	---	4.7	---	1.7	4.0	---
Recorded: End	3.7	3.2	6.6	---	4.7	---	1.7	4.0	---
Printed: Start	3.7	3.2	6.6	---	4.7	---	1.7	4.0	---
Printed: End	3.7	3.2	6.6	---	4.7	---	1.7	4.0	---
Recorded Electrodermal: Automatic									
Printed Electrodermal: Automatic									
11.8.0.402									

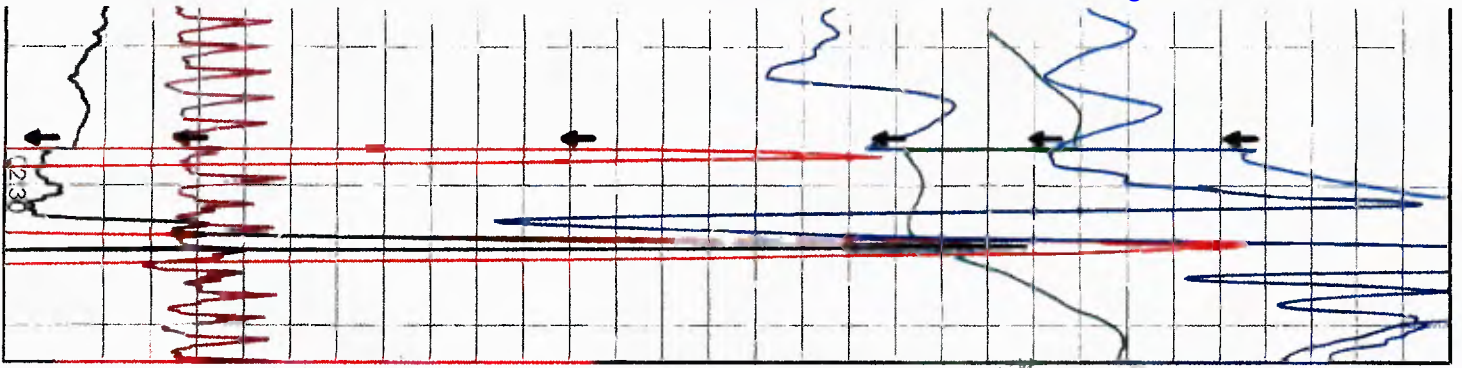
032019klb Mazzoia Series 1 Chart 6



EVANS/PTA055



032019klb Mazda Series 1 Chart 6



032019Klb Mazzoia Series 1 Chart 6

Questions Asked

Page 1

ID	ER Text	Series Type: MGOT
I1	Y Are the lights on in this room?	
SR2	Y Regarding the internal document information that was provided to the media, do you intend to answer each question truthfully?	
C6	N In your entire life, did you ever violate a law?	

EVANS/PTA058

032019Klb Mazzola Series 1 Chart 7

Subject: Leonard Mazzola

Examiner: Ken Butler

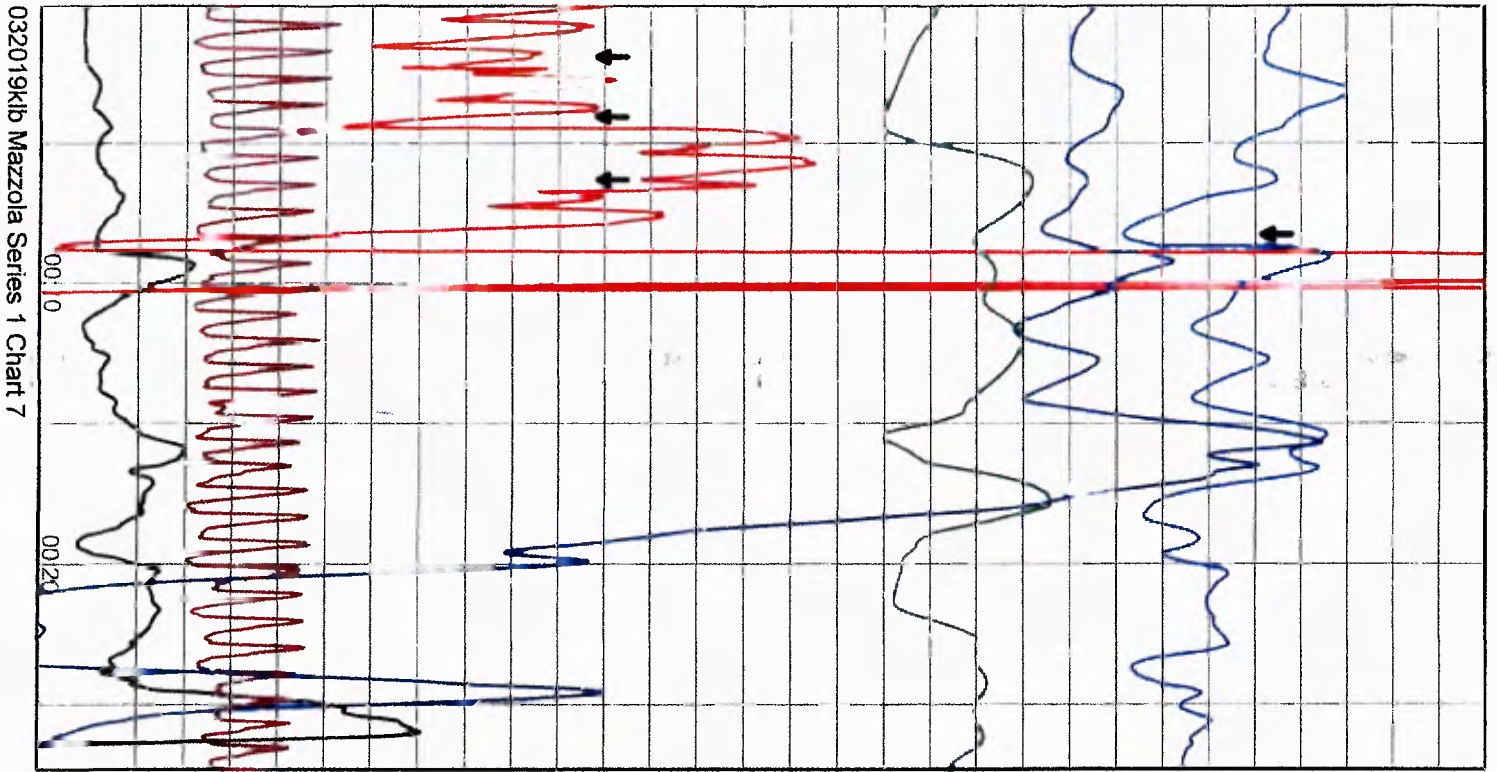
Date: 3/20/2019 View Size: Normal

Time Start: 2:20:01 PM End: 2:20:28 PM Duration: 00:27

Cuff Pressure Start: 74 End: 5

Mazzola AFMGQT (MGQT)

Gain Settings:	CA	P1	P2	FE	SE	AR	EA	PL	AU
Recorded: Start	3.7	3.2	6.6	---	4.7	---	1.7	4.0	---
Recorded: End	3.7	3.2	6.6	---	4.7	---	1.7	4.0	---
Printed: Start	3.7	3.2	6.6	---	4.7	---	1.7	4.0	---
Printed: End	3.7	3.2	6.6	---	4.7	---	1.7	4.0	---
Recorded Electrodermal: Automatic									
Printed Electrodermal: Automatic									
11.8.0.402									



032019Klb Mazzola Series 1 Chart 8

Subject: Leonard Mazzola

Examiner: Ken Butler

Date: 3/20/2019 View Size: Normal

Time Start: 2:21:42 PM End: 2:27:26 PM Duration: 05:44

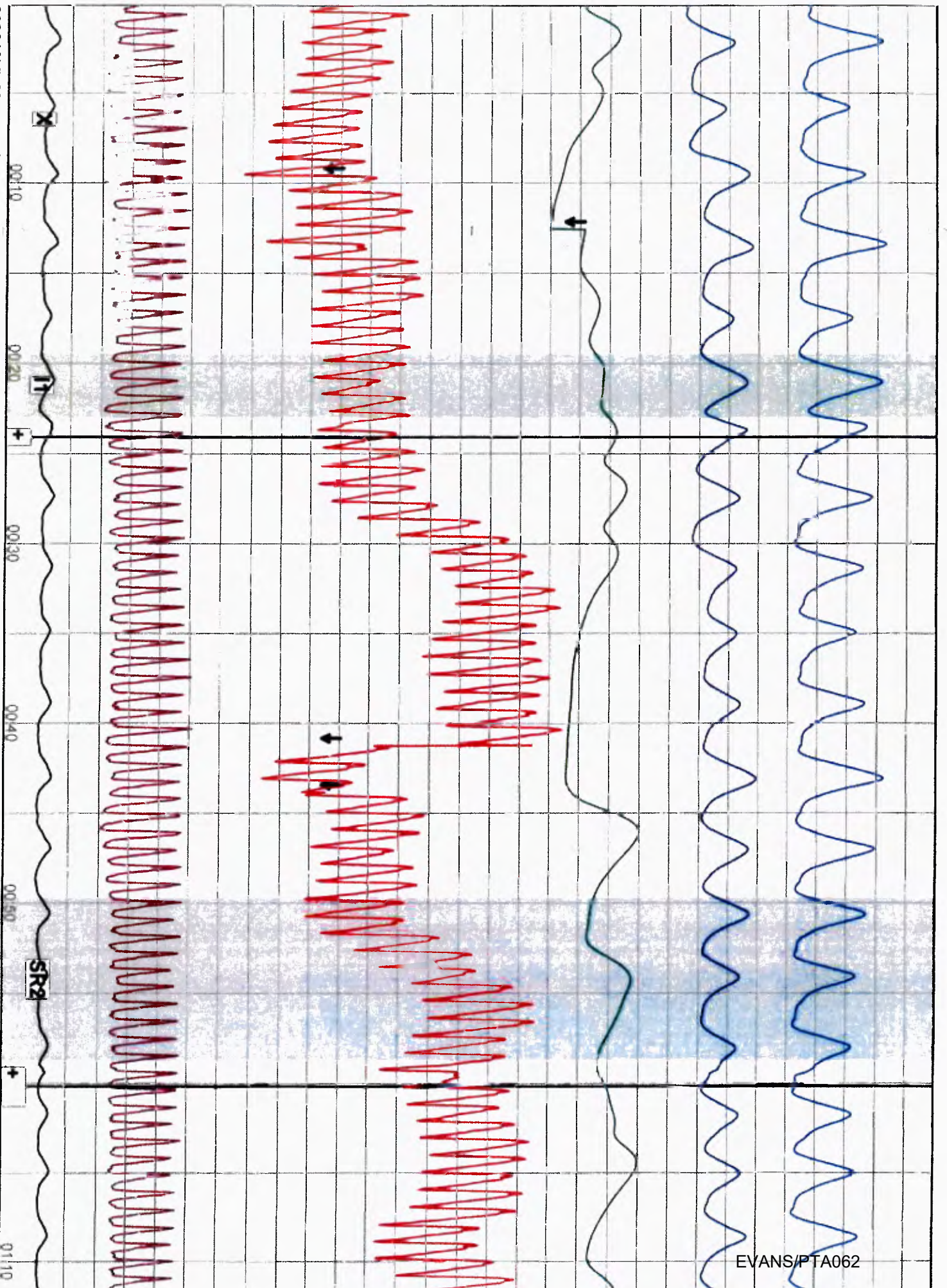
Cuff Pressure Start: 74 End: 81

Mazzola AFMGQT (MGQT)

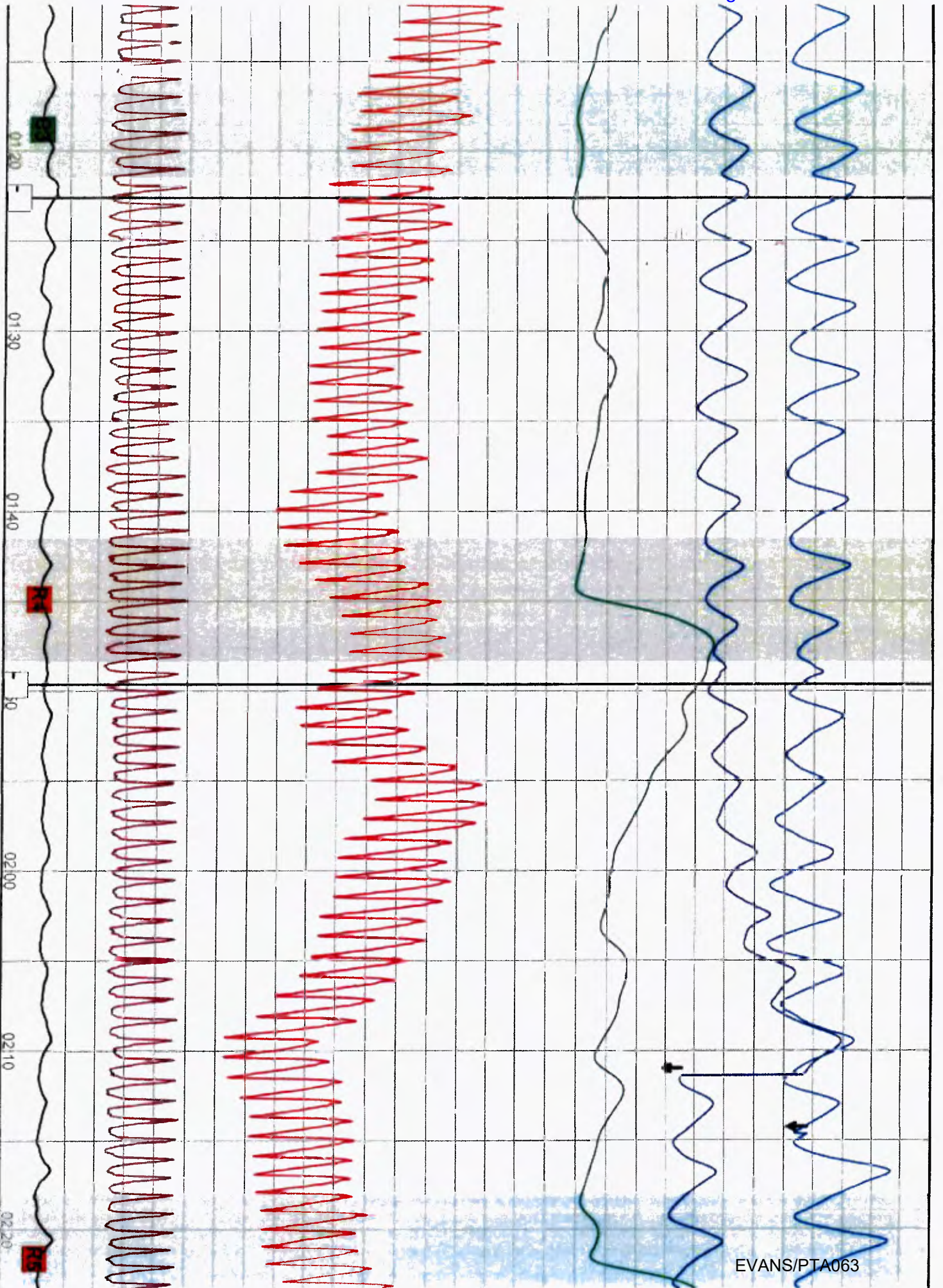
Gain Settings:	CA	P1	P2	FE	SE	AR	EA	PL	AU
Recorded: Start	3.7	3.2	6.6	---	4.7	---	1.7	4.5	---
Recorded: End	3.7	3.2	6.6	---	4.7	---	1.7	4.5	---
Printed: Start	3.7	3.2	6.6	---	4.7	---	1.7	4.5	---
Printed: End	3.7	3.2	6.6	---	4.7	---	1.7	4.5	---
Recorded Electrodermal: Automatic									
Printed Electrodermal: Automatic									

11.8.0.402

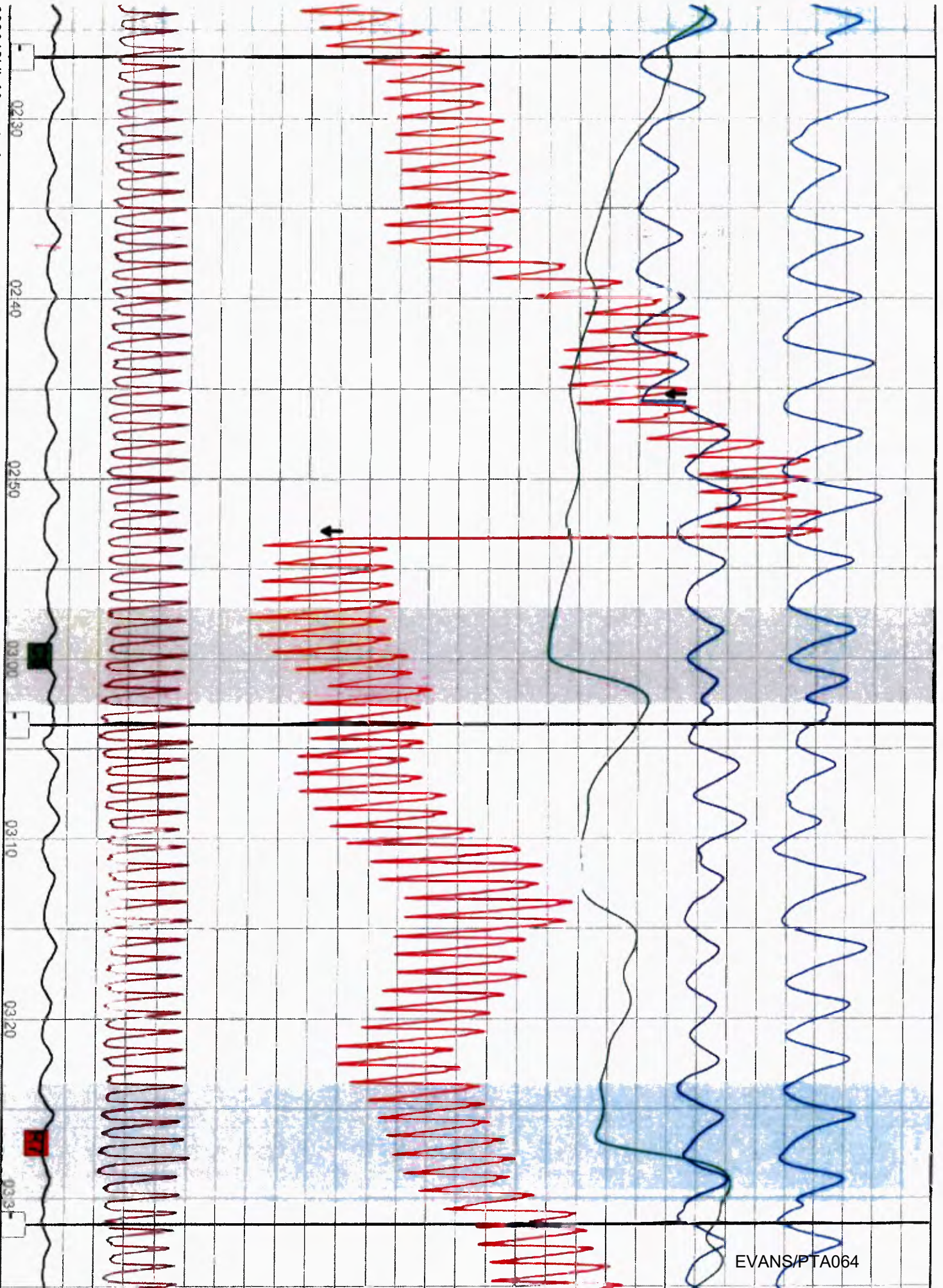
032019.klb Mazda Series 1 Chart 8



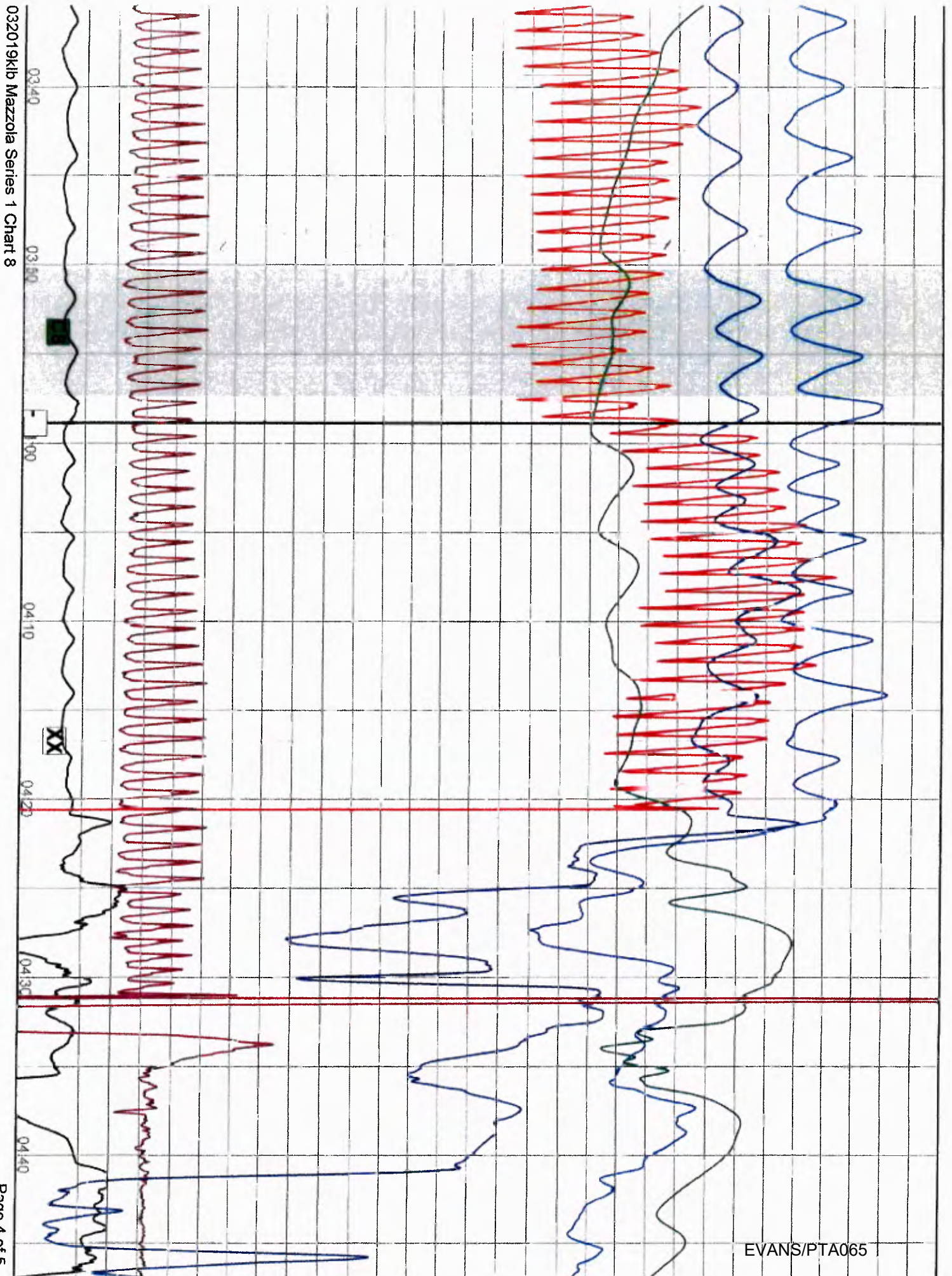
032019Klb Mazzoia Series 1 Chart 8



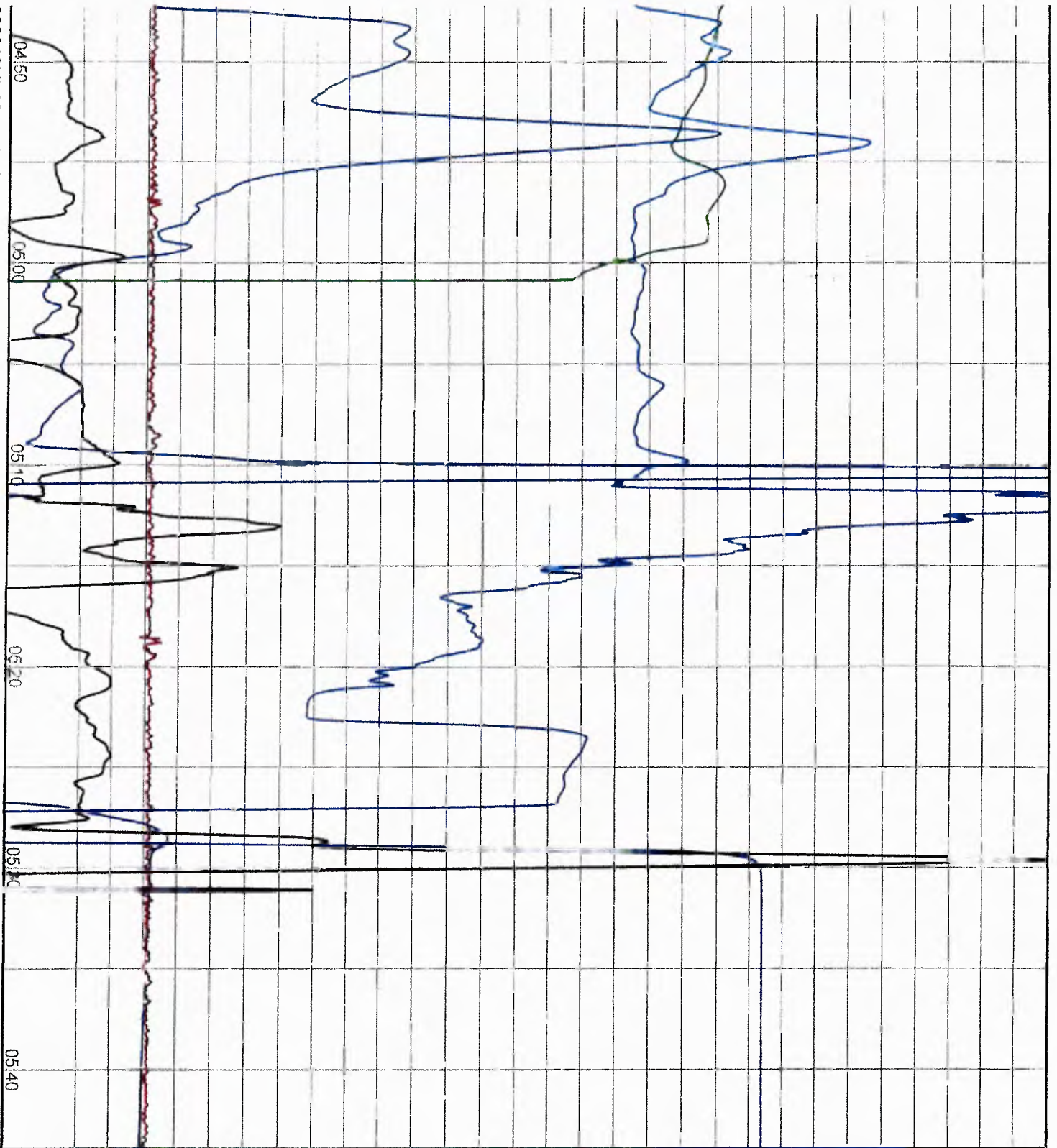
032019Klb Mazzaola Series 1 Chart 8



EVANS/PTA064



032019klb Mazzoia Series 1 Chart 8



032019Klb Mazzola Series 1 Chart 8

Questions Asked

Page 1

ID	ER Text	Series Type: MGQT
I1	Y Are the lights on in this room?	
SR2	Y Regarding the internal document information that was provided to the media, do you intend to answer each question truthfully?	
C3	N In your entire life, did you ever tell even one lie?	
R4	N Did you provide any information contained in those documents to the media?	
R5	N Do you know for sure, who provided information contained in those documents to the media?	
C6	N In your entire life, did you ever violate a law?	
R7	N Did you help provide information contained in those documents to the media?	
C8	N In your entire life, did you ever do anything that was dishonest?	

EVANS/PTA067

zola AFMGQT.lxq

9/9/2019

Page 1 of 1

ER Text

Series Type: MGQT

Y Are the lights on in this room?

SR2 Y Regarding the internal document information that was provided to the media, do you intend to answer each question truthfully?

C3 N In your entire life, did you ever tell even one lie?

R4 N Did you provide any information contained in those documents to the media?

R5 N Do you know for sure, who provided information contained in those documents to the media?

C6 N In your entire life, did you ever violate a law?

R7 N Did you help provide information contained in those documents to the media?

C8 N In your entire life, did you ever do anything that was dishonest?

XX Remain still.

I1A Y Are you in the state of Ohio?

I1B Y Are you now sitting down?

NOTE : NO WRITTEN REPORT OF INVESTIGATION
OR POLYGRAPH WAS EVER GENERATED BY
EVANS, BUTLER, POLY-TECH ASSOC., INC ; 3 PAGES OF
THIS DOCUMENT IS GENERATED ONLY PURSUANT
TO THE EMAIL REQUEST BY ATTY WM DOYLE
ON 9-8-19 8:26PM

WD Evans #
9-9-19

032019klb Mazzola - Examiner Score Sheet (MGQT)

Page 1

Information

Examiner Name	Ken Butler
Final Result	DI
Date Scored	3/20/2019
Countermeasures	None Suspected
Decision Rule:	Auto Select
Prior Probability:	0.500000

Series 1, Chart 2

	R4	R5	R7
P2	-1	0	-1
P1	-1	0	+1
EDA	-2	+2	-2
Cardio	-1	+1	-1
PLE	-1	0	-1

Series 1, Chart 3

	R4	R5	R7
P2	0	-1	0
P1	-1	-1	-1
EDA	-2	-2	-2
Cardio	-1	+1	+1
PLE	+1	0	0

Series 1, Chart 4

	R4	R5	R7
P2	+1	-1	-1
P1	0	-1	-1
EDA	-2	-2	-2
Cardio	-1	-1	+1
PLE	0	-1	0

Series 1, Chart 5

	R4	R5	R7
P2	-1	-1	-1
P1	0	0	0
EDA	-2	-2	-2
Cardio	-1	-1	-1
PLE	+1	+1	0

Series 1, Chart 8

	R4	R5	R7
P2	-1	0	-1
P1	-1	0	0
EDA	-2	-2	-2
Cardio	+1	-1	-1

	1	2	3
PLE	0	0	+1

Results

Sub-Totals	-15	-10	-15
Question Results			

General Information

Subject Name: Leonard Mazzola
Notes:

CONTAINED
IN

Did you provide ANY INFORMATION CONCERNING THOSE
DOCUMENTS TO THE MEDIA?

Do you know for sure who provided information
CONCERNING THOSE DOCUMENTS TO THE MEDIA?
CONTAINED IN

Did you help provide information ~~CONCERNING~~ ^{CONTAINED IN} those
DOCUMENTS TO THE MEDIA?

D/L: LIE, VIOLATE LAW, SHARE SOMETHING
TOLD IN CONFIDENCE, DISHONEST,
TALK ABOUT SOMEONE BEHIND THEIR BACK.

Name LEONARD MAZZA Nick Date 3-20-19

1. Where were you born? What is the date of your birth?
2. Father living (When die, M remarry) What do (did) Where live
Last saw How get along with Father: As child As adult
3. Mother living (When die, F remarry) What do (did) Where live
Last saw How get along with Mother: As child As adult
Living with F Both raised U (If not, who How get along with)
Anyone else help raise you (Who How get along with)
4. How many brothers How many sisters Your placement within family
5. Married # Exact date (Ever: Married, Engaged, Have steady girl)
What does wife do Ever separated (#, Now, Last)
First yr how she get along with U How does she get along with U now

Any daughters How many Any sons How many Where live
Favorite D's name Why Favorite S's name Why
How now get along with D's How now get along with S's
How does wife get along with: D's S's
(If divorced, when last see: D's S's)
6. How many U support Help anyone else Who Anyone helps U Who
7. What do U do How long \$/week Take home pay Think pay Think job
8. How far in School
~~High school~~ (college) grad, aren't you? Where (Major) specialized training
BA Kent criminal justice
9. NO Military What branch^A Highest rank Exact dates Overseas
Awards or honors What did U do # of times busted Type discharge
10. Last arrested Why # of juvenile # of adult Most serious ever
Ever B4 for this Ever B4 Q for this When last in: Jail Court

11. When last to doctor for nerves or hypertensi (What medication)

YES . OFF AND ON

When last have tranquilizer (Details) Last mental treatment

~~Last medicine or drug (Details) Past 24 hrs how much: Alcohol Beer Wine~~

CURRENT Prescription Medication?

TAKING AS Prescribed?

When most to drink past 7 days What Why What do U average each day

NO

NO

12. Anything physical wrong past 2 yrs What When last to Dr. Why

NO

How physical condition right now / Hrs. sleep last nite / Average/night

Good

5

2

Last time: Unconscious, In hospital Why How long in hospital

YES 1/11/87

NO

Ever have: Ulcers Heart condition Emphysema Asthma Lung problem

NO

NO

NO

NO

Diabetes Epilepsy Blackouts When last in fight HMTD Why Outcome

NO

NO

13. When last have b.p. taken Ever low or high ((Describe how tell))

Jan. 19

Good

Last feel faint when got up fast Last got buzz/ring due to high b.p.

EVERY Now & then. CAN'T RECALL LAST TIME

(Last kept awake at nite Buzz/Ring How often get Now have buzz/ring)

(How long last What sound like Burning sensation Pain neck)

14. # of loans & debts over \$100 How many does your wife have over \$100

Who Owed to Amount What For How far behind Worry about

15. Favorite hobby or pastime Favorite organization U belong to

Best thing ever happen to U. Worst thing Favorite animal

(Animal dislike most What one best way U use to get rid of)

(How many times Last time What else did you do to disliked animal)

Entire life: Respect most Like most Greatest ambition: Ever Now

How has society treated U Does it hurt you to lie Ever falsely accused

16. When child have religious training What Who took Go now Last

17. How feel towards this test ~~Why are you taking it~~

PART of Process. forced to take it.

18. What else do you think I should know about U which might help me

032019klb Mazzola - Examiner Score Sh (MGQT)

Page 1

Information

Examiner Name Ken Butler
 Final Result DI
 Date Scored 3/20/2019
 Countermeasures None Suspected
 Decision Rule: Auto Select
 Prior Probability: 0.500000

Series 1, Chart 2

	R4	R5	R7
P2	-1	0	-1
P1	-1	0	+1
EDA	-2	+2	-2
Cardio	-1	+1	-1
PLE	-1	0	-1
	-5	+3	-4

Series 1, Chart 3

	R4	R5	R7
P2	0	-1	0
P1	-1	-1	-1
EDA	-2	-2	-2
Cardio	-1	+1	+1
PLE	+1	0	0
	-3	-2	-2

Series 1, Chart 4

	R4	R5	R7
P2	+1	-1	-1
P1	0	-1	-1
EDA	-2	-2	-2
Cardio	-1	-1	+1
PLE	0	-1	0
	-2	-5	-2

Series 1, Chart 5

	R4	R5	R7
P2	-1	-1	-1
P1	0	0	0
EDA	-2	-2	-2
Cardio	-1	-1	-1
PLE	+1	+1	0

Series 1, Chart 8

	R4	R5	R7
P2	-1	0	-1
P1	-1	0	0
EDA	-2	-2	-2
Cardio	+1	-1	-1

-10 ~~-10~~ -8 -22
 -4

	1	2	3
PLE	0	0	+1

Results

Sub-Totals	-15	-10	-15
Question Results			

General Information

Subject Name: Leonard Mazzola
Notes:

FAULKNER, HOFFMAN & PHILLIPS, LLC

ATTORNEYS AT LAW

SARA A. LIVA

DIRECT: 216.453.0587

MAIN: 216.781.3600

FAX: 216.781.8839

liva@fhplaw.com

March 19, 2019

Sent via email (evans@polytechassoc.com and billefanslaw@sbcglobal.net)

William D. Evans
Poly-Tech Associates Inc.
1185 South Main Street
Akron, OH 44301

RE: Polygraph of Lt. Leonard Mazzola Independence Police Department

Dear Mr. Evans,

As you know, this law firm is legal counsel for the Fraternal Order of Police Lodge 67 ("Union" or "FOP"). It has come to my attention that you have been selected to perform a polygraph examination of Lieutenant Leonard Mazzola of the Independence Police Department. Please be informed that I am Lieutenant Mazzola's legal and union representative and that he has exercised his right to Union representation at all investigatory interviews regarding this matter. As you may know, certain requirements must be met in order to avoid violations of Chapter 4117 of the Ohio Revised Code as well as the terms of the Collective Bargaining Agreement ("CBA") between the City of Independence and the FOP.

Please review the following in preparing for Lieutenant Mazzola's polygraph examination, scheduled to take place on March 20, 2019 at 10:00 AM:

1. Lieutenant Mazzola has been ordered to submit to this test by representatives of his employer, the City of Independence. He is not submitting to this test voluntarily, but is doing so under threat of disciplinary action if he refuses. Therefore, he will not sign any statement that suggests, in any way, that this is a voluntary test.
2. While Lieutenant Mazzola maintains that he has committed no violation of state or federal law, he hereby invokes the protections of *Garrity v. New Jersey*, 385 U.S. 493 (1967) and no part of the test results may ever be used against him in any criminal investigation or prosecution.
3. You must agree to keep the test results confidential and refrain from disclosing those results to anyone not authorized to receive them.

William D. Evans
March 19, 2019
Page 2 of 2

**FAULKNER, HOFFMAN
& PHILLIPS, LLC**
ATTORNEYS AT LAW

3. Lieutenant Mazzola must not be required to waive his right to sue and will not sign any release, general or specific, which would waive his right to bring legal action against you or Poly-Tech Associates Inc., should he have any cause to do so under state or federal law.
4. It is our understanding that the results of this test could potentially lead to disciplinary action against Lieutenant Mazzola. Under Ohio Revised Code § 4117.03(A) and under Article 13.01 of the CBA, Lieutenant Mazzola has a right the presence of a Union representative at any investigatory interview that could result in disciplinary action. His right to representation includes representation during the entire investigatory interview, regardless of where or how the interview is conducted. Moreover, under the terms of the CBA, said representative must not be a person who is subject to interrogation as a result of the incident out of which the investigation arose. If you have an objection to my presence in the room during the polygraph test, or any portion thereof, please inform me immediately so that we may discuss the matter.
5. As Lieutenant Mazzola's legal and union representative, I will determine when and how such representation is necessary. Please do not presume to instruct me to remain silent.
6. Any explanations or descriptions of the testing process should be kept as brief as possible and should limited to only that information required for Lieutenant Mazzola to comply with the requirements of the test.

If you have any questions or comments, please do not hesitate in contact me.

Sincerely yours,

FAULKNER, HOFFMAN & PHILLIPS, LLC, by

Sara A. Liva

SAL:ms

cc: Lt. Leonard Mazzola, FOP 67
Lt. Chuck Wilson, FOP 67
Robert M. Phillips, Esq.

EVANS/PTA077

EVANS & LIVA DISCUSSED ABOVE MATTER POINT BY POINT ON 3/19/19 AROUND 4:15 PM.

Bill Evans

From: Sara Liva <liva@fhplaw.com>
Sent: Tuesday, March 19, 2019 11:39 AM
To: Bill Evans; billevanslaw@sbcglobal.net
Cc: Robert Phillips
Subject: Questions for Lt. Mazzola

Dear Mr. Evans,

Please provide me with a copy of the questions you intend to ask Lt. Lenny Mazzola during tomorrow's testing.

Thank you,

Sara A. Liva, Esq.
FAULKNER, HOFFMAN & PHILLIPS, LLC
20445 Emerald Parkway Drive, Ste. 210
Cleveland, Ohio 44135-6029
Direct Dial: 216.453.0587.
Phone: 216.781.3600. Ext. 3587
Fax: 216.781.8839.
liva@fhplaw.com

The information contained in this email is attorney-client privileged and the confidential information is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address via the U.S. Postal Service.

POLY-TECH ASSOCIATES, INC.

1185 S. Main Street
Akron, Ohio 44301
PH (330) 434-2344

Invoice

DATE	INVOICE #
5/8/2019	10746

BILL TO
Att: Gregory J. O'Brien Law Director City of Independence 6800 Brecksville Road Independence, OH 44131-5045

PAID
05/20/2019

DESCRIPTION	AMOUNT
PLEASE REMIT THE SUM OF \$850.00 FOR SCHEDULED SPECIFIC ISSUE COMPUTERIZED POLYGRAPH TESTING CONDUCTED:	
March 20, 2019 in Akron, OH Specific Issue Polygraph Testing Conducted On LT. LEONARD MAZZOLA	850.00
(Investigation) Summit Cty. Sales Tax	0.00
DUE UPON RECEIPT. PLEASE INDICATE OUR INVOICE NUMBER ON REMITTANCE. THANK YOU. Tax Id:34-1353021	Total \$850.00

Michael Kilbane

From: Michael Kilbane
Sent: Thursday, March 07, 2019 01:55 PM
To: Leonard Mazzola
Subject: administrative investigation

The city has retained an outside firm to conduct an administrative investigation into potential violations of city policies. If you are in receipt of this email you will be required to be present for an interview on Wednesday, March 13 at the below listed time. These interviews will take place in the council caucus room at City Hall. You are required to answer all questions completely and honestly and assist investigators with any information they request. If you fail or refuse to forthrightly answer any and all questions asked you may be subject to disciplinary action up to and including termination of employment with the City of Independence.

You are further ordered not to discuss any aspect of this administrative investigation with anyone other than your department head or chief, attorney or designated union representative (if applicable). A violation of this order will be considered an act of insubordination, which could result in disciplinary action against you, up to and including termination of employment with the City of Independence.

If you are in a bargaining unit covered by a collective bargaining agreement which provides for presence of a union representative, it is your responsibility to make arrangements for such representation if you so desire. Sufficient advanced notice is being provided and no interviews will be delayed or rescheduled.

If you have any questions regarding these proceedings please address them directly with your department head or chief.

Employee: Leonard Mazzola

Interview time: 1200

Independence Police

Memo

To: Sgt. JT Kurtz
From: Lt. Mazzola
cc: Chief Kilbane
Date: August 8, 2018
Re: Productivity

Sgt. Kurtz,

As Sergeant of your shift, you are responsible for the productivity of your shift. Year over year productivity has significantly declined. Immediate action is required. As Sergeant you will need to meet with each one of your officers on your shift, and identify officers performing below acceptable levels of productivity. You shall immediately implement an action plan to reverse the declining trend.

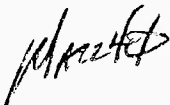
Please be sure your officers are properly trained in the use of tools required to enforce our ordinances as well as procedures and efficiency in completing E tickets. Performance should be monitored and documented on a daily basis until the problem has been resolved.

Patrol officers work 14 shifts a month; traffic enforcement range should include at least 2-3 traffic enforcement actions per shift. If this cannot be accomplished, then officers will need to complete daily activity logs accounting for each hour of work, to address any time management issues.

Officers assigned to special units and details must understand that their assignment is in addition to patrol duties. Production from these officers is expected, albeit at a reduced rate, in patrol activities and enforcement.

I have a deadline of 08/14/2018, therefore this needs to be immediately implemented. Please have your action plan in place immediately.

Lt. Mazzola



Independence Police

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Lt. Mazzola



Michael Kilbane

From: Michael Kilbane
Sent: 9/14/2018 Tuesday, September 18, 2018 10:06 AM
To: Police Patrol
Subject: officer activity

Patrol:

It has come to my attention that there have been rumors circulating regarding expectations for patrol officers, so I wanted to be clear about what is driving the discussion.

In July of this year I was asked by the Mayor why our number of traffic citations had declined from the previous year - through June we were down almost 200 tickets over the same period last year. In August he contacted me again to ask why the totals had declined even further over the month of July. I assured him that we would investigate our productivity and take steps to address any issues immediately.

Below are the comparisons year to year for the January through July time period (01-01-2017 to 08-03-2017 vs. 01-01-2018 to 08-03-2018):

	2017	2018	Difference
Traffic Stops	4071	3476	(595)
Misdemeanor Arrests	239	211	(28)
Felony Arrests	42	33	(9)
Warrant Arrests	91	87	(4)
Parking Cites	55	21	(34)
Traffic Cites	2042	1711	(331)
OVI	23	24	1
Enforcement Services	6571	5578	(993)
MVA Reports	282	266	(16)
Incident Reports	457	407	(50)
Calls for Service	11889	9805	(2084)

Lieutenant Mazzola and I have reviewed both individual officer and aggregate division performance at length, and there is no question our results are down. Staffing levels ebb and flow as officers retire, get promoted, are assigned away from patrol etc., but even with the slight reduction in total hours worked, our call volume and activity levels do not justify such a drastic reduction in productivity. When we identify deficiencies, we need to address them ASAP.

Lieutenant Mazzola has the responsibility for setting and maintaining performance expectations to ensure that both department-wide and individual productivity is attained, and he does so with my full support and backing. He will work with your sergeants to monitor performance and make adjustments when necessary. If anyone thinks that these expectations are unreasonable or unfair, after discussing it with your sergeant and Lieutenant Mazzola, please come see me.

From my experience, I know that we have it very good here, with great pay, flexibility, time off, strong administrative and community support and a reasonable workload. I appreciate your dedication to our community and look forward to your achieving strong results.

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Sincerely,

Chief Kilbane

3

City of Independence, Ohio
"THE HEART OF CUYAHOGA COUNTY"
6800 BRECKSVILLE ROAD INDEPENDENCE, OHIO 44131

Police Department
(216) 524-1234
FAX (216) 328-0110

To: Ptl. Brian Dalton
From: Lt. Len Mazzola
CC: Chief Michael Kilbane
Date: 01/07/2019
Re: Performance Standard 10/01/18-12/31/18

Ptl. Dalton,

I have completed calculating the numbers for the 10/01/18-12/31/18 Performance Standard reporting period. During this period you wrote 20 citations. The Performance Standard outlined via email delivered to all Patrol, stated that each officer would be responsible to have a minimum of 10 citations per month, thus a total of 30 for each quarterly reporting period.

You have failed to comply with this directive issued. Per Chief Kilbane, this letter serves as a written reprimand to document the situation. Failure to meet acceptable Performance Standard numbers going forward will result in progressively more severe discipline. All other members of the Patrol division have met the Performance Standard for this reporting period.

Please sign below acknowledging receipt of this written reprimand.

Ptl. Brian Dalton

REFUSED No Just Cause!
I HAVE THREATENED AND AM SIGNING THIS UNDER DURESS!
Please let me know if there is anything I can do to help moving forward to avoid any issues.

B Dalton

Lt. Len Mazzola

3

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4

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6800 BRECKSVILLE ROAD

INDEPENDENCE, OHIO 44131

Police Department

(216) 524-1234

FAX (216) 328-0110

To: Lieutenant Mazzola

From: Chief Kilbane

CC: H.R. Director Linker

8/19/18

Date: ~~8/19/18~~ 8/21/18

Re: Pre-disciplinary Hearing



Lt. Mazzola:

On August 6, 2018 I issued a written directive instructing you to complete several specific actions. These actions are necessary to address identified performance deficiencies within the patrol division that is under your command. As of this date I believe you have failed to comply with several of the assigned tasks. Please be present on Tuesday, September 4th at 9:00 A.M. for a pre-disciplinary meeting in the Chief's office as required under the terms of your collective bargaining agreement. You are entitled to representation at this meeting under the terms of your collective bargaining agreement.

You may voluntarily waive your right to a pre-disciplinary hearing if you choose to do so by signing the attached waiver and having it witnessed.

This meeting will provide the opportunity for you to respond to alleged violations of the following departmental orders:

GENERAL ORDER: 502 Uniform Standards of Conduct

12. Displaying Competent Performance and Achieving Competent Performance Results.

16. Insubordination

17. Knowing, Observing, and Obeying All Directives, Rules, Policies, Procedures, Practices and Traditions

Please consult your union representative if you have any questions regarding these proceedings.

Chief Michael J. Kilbane

City of Independence, Ohio

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INDEPENDENCE, OHIO 44131

Police Department

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Date: ~~01/21/2019~~ 8/19/18

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Please consult your union representative if you have any questions regarding these proceedings.

Chief Michael J. Kilbane

Michael Kilbane

From: Gallek, Ed <egallek@fox8.com>
Sent: Monday, January 14, 2019 11:08 AM
To: Michael Kilbane
Subject: discipline requests

I am requesting the pre-disciplinary and disciplinary paperwork for:

Lt. Mazzola—process started last August for Achieving Competent Performance Results, Insubordination, Knowing ...All Directives, Rues, Policies, Procedures, Practices, and Traditions

Officer Brian Dalton—filed recently concerning number of traffic stops/tickets written.

I am also requesting any other discipline for any other supervisors or patrol officers issued since last August regarding traffic stops/tickets written.

I am also requesting any grievances filed for any of these disciplinary issues or policies concerning the number of traffic stops/tickets written/performance expectations.

Thanks
Ed Gallek
FOX 8
216-403-3727

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FOX 8
216-403-3727

I-Team: Counting traffic tickets in busy Northeast Ohio suburb

Posted 6:33 pm, January 14, 2019, by Ed Gallek

<https://fox8.com/2019/01/14/i-team-counting-traffic-tickets-in-busy-northeast-ohio-suburb/>

INDEPENDENCE, Ohio - The FOX 8 I-Team is investigating if some police officers are feeling pressured to write more traffic tickets in a suburb many of you pass through every day.

We're asking questions about what we found in Independence.

A police memo shows a "...Productivity Standard...Patrol Officers shall meet or exceed 10 traffic citations/month."

Another memo refers to "...at least 2-3 traffic enforcement actions per shift." Those can include warnings or crash investigation and more, not just tickets.

Drivers such as Yolanda Hamilton reacted, saying, "It is troublesome because then it puts pressure on the officers that they feel obligated that they have to pull people over."

The I-Team went to Independence Police Chief Michael Kilbane. He argues, officers do not face random quotas. He says more traffic enforcement means more safety, and he wants patrol officers held to an equal standard.

We asked about one officer given a written warning.

Chief Kilbane said, "For not performing to the standards that we expect of our officers. It means all of the other officers are carrying an unfair share of the burden. You're getting paid to do a job. It's reasonable to expect a certain performance level for that pay."

So, what led to this? The I-Team has learned talk about it began in the police department months ago. Documents show the chief said he had been questioned by the mayor about why the number of traffic tickets had gone down by hundreds.

We also asked the chief, if the mayor is saying numbers are down, and you're telling officers to step it up, is that more about safety or numbers? He responded, "If you pick that number and cherry-pick 'em, you can make that argument."

Maclane Nugent, another driver, said, "I don't think there should be quota for something like that."

The Independence mayor did not return a message.

We've learned the officer given a warning has filed a grievance, an appeal. We've requested a copy of that, and we're watching to see how that gets handled.

9 51

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9

5A

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Posted 6:33 pm, January 14, 2019, by Ed Gallek

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(7)

SB

Leonard Mazzola

From: Leonard Mazzola
Sent: Tuesday, September 25, 2018 04:11 PM
To: Police; Dispatchers
Cc: Data Entry
Subject: Performance Standard

Patrol,

Effective 10/01/2018,

Over the last month, I have had multiple conversations with Chief Kilbane, concerning Patrol Productivity, discussed at length was traffic citations totals.

After much discussion, it has been decided by the Chief of Police, that I now implement, monitor and manage a Performance Standard for all the officers in the Patrol Division. This Performance Standard will include everything from effective policing to performance and productivity.

The Patrol Sergeants will have a significant role in monitoring their individual shifts' compliance with the Performance Standard.

Chief Kilbane has set a minimum Performance Standard of approximately 3000 traffic citations/year for Patrol as a whole, this figure includes Overtime Traffic Details. To obtain this goal, approximately 2000 tickets need to be written on shift, and approximately 1000 tickets need to be written on Overtime Traffic Details.

We have a total of 18 Full Time Patrolman in our Patrol Division, Monthly breakdown is $2000/18/12 = 9.26$;

To meet this Productivity Standard, Patrol Officers shall meet or exceed 10 traffic citations/month.

This Productivity Standard is independent of time off, special assignment, and OIC assignment.

To ensure this Performance Standard is met, I will be running quarterly reports on officers to ensure compliance, this way an officer with extended time off or assignment will have sufficient time to meet the Productivity Standard without unreasonable demand. The first reporting period will be the last quarter of 2018, Oct18-Dec18.

It is also understood that each Patrol Shift is different in the amount and types of traffic they may encounter daily and that your first responsibility is to protect and serve the public; however this does include traffic enforcement. We will not in any way reduce our level of service, professionalism, or officer safety to meet our Performance Standard.

Please keep in mind that the Performance Standard set by the Chief is not unattainable and can be met.

I have been directed to report any Officer failing to meet their Performance Standard to their Sergeant & Chief Kilbane.

This is a new procedure for us, so no doubt there will be items to work out, I understand, and will do the best I can to operate Patrol as efficiently as possible.

With our transition to Chagrin Valley Dispatch, Officers **MUST log into Sunbeam on vehicle computers! Dispatchers & Sergeants need to coordinate info to ensure ALL officers are logged in!**

Officers failing to comply with this computer procedure will be subject to discipline. This email will be considered and reviewed in any discipline process. If your computer is not functioning, please report the problem to IT and/or Lt. Kroeger immediately.

Officers assigned to camera cars **MUST use cameras within accordance to our policy!** Officers failing to comply with this camera procedure will be subject to discipline. This email will be considered and reviewed in any discipline process. If your camera is not functioning, please report the problem to Ptl. Pacl and/or Lt. Kroeger immediately.

Lt. Mazzola

Patrol Commander

(7)

5B

Leonard Mazzola

From: Leonard Mazzola
Sent: Tuesday, September 25, 2018 04:11 PM
To: Police; Dispatchers
Cc: Data Entry
Subject: Performance Standard

Patrol,

Effective 10/01/2018,

Over the last month, I have had multiple conversations with Chief Kilbane, concerning Patrol Productivity, discussed at length was traffic citations totals.

After much discussion, it has been decided by the Chief of Police, that I now implement, monitor and manage a Performance Standard for all the officers in the Patrol Division. This Performance Standard will include everything from effective policing to performance and productivity.

The Patrol Sergeants will have a significant role in monitoring their individual shifts' compliance with the Performance Standard.

Chief Kilbane has set a minimum Performance Standard of approximately 3000 traffic citations/year for Patrol as a whole, this figure includes Overtime Traffic Details. To obtain this goal, approximately 2000 tickets need be written on shift, and approximately 1000 tickets need to be written on Overtime Traffic Details.

We have a total of 18 Full Time Patrolman in our Patrol Division, Monthly breakdown is $2000/18/12 = 9.26$;

To meet this Productivity Standard, Patrol Officers shall meet or exceed 10 traffic citations/month.

This Productivity Standard is independent of time off, special assignment, and OIC assignment.

To ensure this Performance Standard is met, I will be running quarterly reports on officers to ensure compliance, this way an officer with extended time off or assignment will have sufficient time to meet the Productivity Standard without unreasonable demand. The first reporting period will be the last quarter of 2018, Oct18-Dec18.

It is also understood that each Patrol Shift is different in the amount and types of traffic they may encounter daily and that your first responsibility is to protect and serve the public; however this does include traffic enforcement. We will not in any way reduce our level of service, professionalism, or officer safety to meet our Performance Standard.

Please keep in mind that the Performance Standard set by the Chief is not unattainable and can be met.

I have been directed to report any Officer failing to meet their Performance Standard to their Sergeant & Chief Kilbane.

This is a new procedure for us, so no doubt there will be items to work out, I understand, and will do the best I can to operate Patrol as efficiently as possible.

Bill Evans

From: Michael Kilbane <kilbanem@independenceohio.org>
Sent: Friday, March 08, 2019 11:40 AM
To: Bill Evans
Subject: Dalton reprimand
Attachments: BD Reprimand.pdf

Bill,

Attached is the reprimand to Officer Dalton that was requested by the reporter. This reprimand was written by Lt. Mazzola, printed out and given directly to Patrolman Dalton. It was not disseminated electronically and the only people who possessed it were Lt. Mazzola, Patrolman Dalton and myself after it was presented to Dalton for his signature. I also included the ORC section below that addresses accessing a computer system beyond the scope of authority, it is an F5.

Please let me know if you need anything else.

Thanks,

Chief Mike Kilbane

2913.04 Unauthorized use of property - computer, cable, or telecommunication property.

(A) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.

(B) No person, in any manner and by any means, including, but not limited to, computer hacking, shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service or other person authorized to give consent.

(C) Except as permitted under section 5503.101 of the Revised Code, no person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the law enforcement automated database system created pursuant to section 5503.10 of the Revised Code without the consent of, or beyond the scope of the express or implied consent of, the chair of the law enforcement automated data system steering committee.

(D) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the Ohio law enforcement gateway established and operated pursuant to division (C)(1) of section 109.57 of the Revised Code without the consent of, or beyond the scope of the express or implied consent of, the superintendent of the bureau of criminal identification and investigation.

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6

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ACTIVITY LOG

Case: _____

DATE/TIME	ACTIVITY	TIME
3-22-19	1 st call to Mike Esposito to brief him about <i>Allyson</i>	.6
3-22-19	13 th call-in to 216 524-1562 tele conference with Anthony Toquati, Chief Kilbane, Linda Regan LA HITIA LAMON, Mike Esposito	1.5
3/25/19	Follow-up w/CHIEF: 4:25 PM	.3
3/26/19	Call to Greg O'Brien & W-9 etc.	
9-9-19	<p>After Payments to New Time.</p> <p>Sent to W-9 Doyle (Pursuant to 3/8/19 request) the following by W-9 Doyle.</p> <ol style="list-style-type: none"> ① our release form ② CHIEF's order to two poly. ③ Polygraph test results ④ Algorithmic test results by Butler ⑤ Polygraph Test ⑥ how office invoice of 5/22/19 ⑦ 4389.24 payment apcting ⑧ 5,000 retained ⑨ 850 pay to PTI & invoice ⑩ contract for Professional Services. <i>copying/</i> <p>call to Doyle 9-7-19</p> <p>call to Doyle to see if he wants the report generated by computer or polygraph results.</p>	.8 .2
6/18/19	T/C w/ Law Director @ inmate	

ACTIVITY LOG

Case: Independence

DATE/TIME	ACTIVITY	TIME
1/31/19	Mtg. here w/ Cf. 0 216-524-1234 2hrs	2.0
2/8/19	Recd info from Cf. Kibbene	
2/13/19	Called Greg O'BRIEN. Left msg: READ reviewed file	.8
"	T/C w/ Greg	
"	email: Contract for Greg Adv. to Greg O'Brien (Liam Bill)	
3-5-19	mtg AT PTL w/ CHIEF & HENRY	
3-5-19	mtg for meeting news file (completely)	1.0
3-5	mtg 3:00-4:45 CHIEF & HENRY	1.7
3-7-19	T/C w/ Chief Kibbene	.5
3-13-19	Left home at 5:45 AM Back Home at 6:15 PM PLS HENRY	13.5
3-14-19	update NLR Espinoza & K's; re w/ Koff @ 1st amendment issue	.5
	Both say no problem but Restrictive could be a problem.	
3-15-19	T/C w/ Chief Kibbene	.2
3-15-19	Called Ken Butler. C. Enns for Poly	.5
3-18-19	Confirmed w/ Chief Kibbene that Maggola is sch for interview (Bill) on 3-20-19 @ 10 & poly w/ Ken @ noon (copy of email from Chief to Maggola re 3-20 appt rec'd)	.1
3-18-19	T/C w/ CHIEF & HENRY	1.1
3-18-19	Confere mtg w/ Butcher. PREP docs for interview	2.5
3-20-19	9 AM to prep Polygraph the Polygraph interview by Enns	9:55 PM
	Polygraph T/C w/ chief @ the memo provided by MAZZOLA (Enns from MAZZOLA to dispatching & photo) CHIEF said he did not know of the content of the the Day of MAZZOLA's interview on 3-13-19 when MAZZOLA promised it to ENNS AND compared the content of it to GARCIA's request for Documents under PRR MAZZOLA was claiming the Chief withheld the same from ENNS for a purpose of some kind & "Knap MAZZOLA and make it look like he was involved. MAZZOLA's Reason seemed unclear. MAZZOLA also claimed the options of releasing his pre-D to media were 1 CHIEF 2 MR 3 GARCIA WILSON 4 BOB PHILLIPS ATT 5 the BUS WUB (someone got into this 3" Blue Busel when it was left alone in his office - copied or photo'd the pre-D AND DARTON's write up AND left the office; MAZZOLA RE AFFIRMED that he did not copy his pre-D unless it was PDF'd to WILSON AND OR PHILLIPS. MAZZOLA says he kept this document & showed me the pre-D anytime stating it was left in an envelope by the CHIEF on his Reg Bar at his desk in his office.	
	- Henry is the only one who raised against the performance standards	

- T/C w/ chief AT 8:00 PM chief says no one saw motion but Henry re the PRE-D & pre-D or info @ Henry's pre-D

EVANS/PTA103

William D. Evans, II, Co., L.P.A.
Attorney at Law

CONTRACT FOR PROFESSIONAL SERVICES

I/We, Greg O'Brien, City Law Director /Title/Position, on behalf of the City of Independence, Ohio and the Division of Police and Law Department ("Client"), request that William D. Evans, II, Co., LPA be engaged to perform an Internal Affairs and/or workplace investigation involving a matter of unauthorized disclosure of departmental information, and the Client engages Mr. Evans to exercise the attorney/client privileges that are inherent in such relationship so as to protect and ensure the confidential nature of such information derived during such investigative work. In order to ensure such relationship, the Client agrees to provide William D. Evans, II, Co., LPA an initial retainer totaling \$5,000. *total not to exceed \$1000.00*

Client agrees to pay William D. Evans, II his legal hourly rate of \$275 (portal to portal - if/when travel is required) from inception (1/31/2019), through the end of the case, or ancillary involvement as noted below.¹ The hourly fee will be deducted from the retainer supplied beginning on the first day of engagement being January 31, 2019. *AT*
W.D. Evans
3-1-19

Client further understands that any and all pertinent expenses will be paid, or reimbursed by the City through the aforementioned retainer and/or paid through invoice, including but not limited to utilization of authorized employees or outside contractors of William D. Evans, II, Co., LPA including auxiliary expenses and/or fees that are enumerated below, including but not limited to expenses such as mileage (State ratio 54.5¢/mile), meals, lodging, telephone expenses, transcription fees, stenographer fees, copy costs, photographer expenses, miscellaneous investigative expenses, out of pocket expenses associated with said case and any other legitimate expenses associated with the retained investigative work. No expense expenditures over \$250 will be made without the written consent of the Law Director. It is agreed that Attorney Evans

¹ Client agrees to pay Mr. Evans' time and expense into the future for unforeseen reasons such as, but not limited to, any required deposition(s), court appearance(s), along with any other ancillary time necessary for furtherance of the case, as in defense of any adverse action resulting in legal filing(s), and/or retaliatory action(s) emanating from any investigated City employee(s) resulting from, or in connection with this internal affairs/workplace investigation. Should Mr. Evans or his company become a deponent, witness or defendant, as a result of any matter involving the investigation relating to this investigation, Mr. Evans will be entitled to reimbursement for his time and expenses under the aforementioned terms of this agreement as if the investigation were on-going; this provision also applies in the event that Mr. Evans is for any reason named as the City's co-defendant, witness, deponent, or in any other capacity relevant to the objectives under which Attorney Evans has been retained. This section will not apply if Mr. Evans and/or his company, employees, agents have acted in a negligent or reckless manner.

may engage other staff members within his organizational structure, at a rate of \$145/hour, to assist him on this investigative endeavor so as to judiciously, economically and expeditiously further the collection of information; all such ancillary work will be reviewed by Attorney Evans for purposes of this Attorney/Client relationship.

William D. Evans II, Attorney at Law, reserves the right to withdraw as counsel or investigator if he determines that there is no adequate basis for proceeding with the case, or for any other unspecified reason. The City may terminate this Contract upon notice to William D. Evans II at any time.

It is agreed that any ancillary costs and expenses associated with the investigation will be paid or advanced, due to any litigation, grievance, or other formal process which Mr. Evans may be drawn into, as a result of this undertaking on behalf of the City of Independence except to the extent that Mr. Evans, his company, employees and agents act in a negligent or reckless manner in pursuing the investigation.

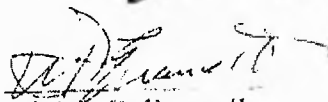
It is agreed that such engagement and work is protected by the attorney/client relationship and any work product emanating therefrom is privileged communication.

Any effort to protect such privilege will be the responsibility of the City of Independence and such expense(s) will be borne by the Client and shall inure to the benefit of William D. Evans, II and his law office, as an individual in his personal and/or corporate capacity.

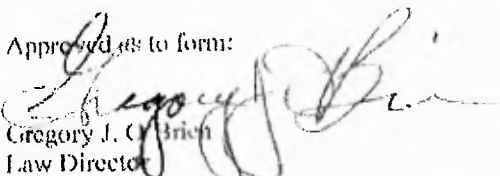
Date 2-26-19


Anthony L. Togliatti, Mayor

Date 2-1-19


William D. Evans, II
Attorney at Law
William D. Evans, II, Co., LPA

Approved as to form:


Gregory J. O'Brien
Law Director

Evans and/or his company, employees, agents have acted in a negligent or reckless manner.
24351145.2

- Lt. MAZZOLA

30 YRS. all 4 PATROL SHIFTS
4 SGTs 0 a night shift
4.5 personnel.

- HR Director

MIKE →

LD

- Law Director

LD

SHANE BATES

- Public Records

Ed GALLICK shows up independent KAS BUREAU
Lt. got disciplinary for not.

- Magic Court

- 1 Policy RECORDS Process approved by Review Check & Lt. K. ROGER.
- 2 PIO → media inquiries so the PIO. No remote media.

5 min

- ① Pte BRIAN DALTON -
- ② Ray ~~PAUL~~ PALL
- ③ Base Sgt JOHN KURTZ

Time

Date	Time	Notes
1-31-19	2.0	service hours provided
2-13-19	.8	
3-5-19	1.0	
3-5-19	1.7	
3-12-19	.5	
3-13-19	13.5	+ Miles
3-14-19	.5	
3-15-19	.2	
3-15-19	.5	
3-18-19	.1	
3-18-19	1.1	
3-19-19	2.5	
3-20-19	8.0	
3-22-19	.6	
3-22-19	1.5	

34.5

x 27.5

9,487.50

850⁰⁰ polyprop.

3-22-19

1000'S

Pre & no Electronic copies & paper & printed
of Handed to

Spine w/ DARTON

→ Him

2/27/19 General says time deficient. Henry and he noted a
point system not just tickets but needed to meet
traffic metrics.

Henry went to Mayor & printed point system &
told Mayor Chief was OK w/ points.
Also was critical @ A 100% accident left
A 55% off on DUI from motor city
DOB Records request from truck for this
accident.

In July as chief
all info had to go thru chain of command.

on March 19th after returning EHS.

- 5 officers were directed to compare w/ EHS

3/11/19 A senior dept ^{retiree} approached me that Henry had
info that would bring Mayor

→ GALEK requested Poly info July after polygraph.

PTA

3/19/19 M, w/len

T/C chf
./c smt

Perz chief

IF IT comes out B.Y TEST, IT
will be treated less harshly

IF IT comes out after IT will
be dealt with much more severely.

✓ The major issue is the release of info in your
memo

✓

✓

Story online by Fox w/ video - Antlele

INDEPENDENCE, Ohio - The FOX 8 I-Team is investigating if some police officers are feeling pressured to write more traffic tickets in a suburb many of you pass through every day.

We're asking questions about what we found in Independence.

A police memo shows a "...Productivity Standard...Patrol Officers shall meet or exceed 10 traffic citations/month."

Another memo refers to "...at least 2-3 traffic enforcement actions per shift." Those can include warnings or crash investigation and more, not just tickets.

▶ from Mazzola memo provided in interview

document #1 to
in ~~Antlele~~ JT Kurtz

Michael Kilbane

From: Michael Kilbane
Sent: Thursday, March 07, 2019 01:55 PM
To: Leonard Mazzola
Subject: administrative investigation

The city has retained an outside firm to conduct an administrative investigation into potential violations of city policies. If you are in receipt of this email you will be required to be present for an interview on Wednesday, March 13 at the below listed time. These interviews will take place in the council caucus room at City Hall. You are required to answer all questions completely and honestly and assist investigators with any information they request. If you fail or refuse to forthrightly answer any and all questions asked you may be subject to disciplinary action up to and including termination of employment with the City of Independence.

You are further ordered not to discuss any aspect of this administrative investigation with anyone other than your department head or chief, attorney or designated union representative (if applicable). A violation of this order will be considered an act of insubordination, which could result in disciplinary action against you, up to and including termination of employment with the City of Independence.

If you are in a bargaining unit covered by a collective bargaining agreement which provides for presence of a union representative, it is your responsibility to make arrangements for such representation if you so desire. Sufficient advanced notice is being provided and no interviews will be delayed or rescheduled.

If you have any questions regarding these proceedings please address them directly with your department head or chief.

Employee: Leonard Mazzola

Interview time: 1200

3/18/19 11:15
Wittia/Chief

2/28th/19 Lenny brought up case that
the police officer was paid
a few days later is
A PRR for truck

- IN w/ major discussing grievance
stuff

outline to cover documents -

1 - Chief
2 - Chuck
3 - Wittia } Pre. D.

• DARTON closely held - Registered
registered
- No on how it but
Lenny

Bill Evans

From: Michael Kilbane <kilbanem@independenceohio.org>
Sent: Saturday, March 16, 2019 8:42 AM
To: Leonard Mazzola
Subject: administrative investigation

The city has retained an outside firm to conduct an administrative investigation into potential violations of city policies. This firm has determined that follow up interviews are required. If you are in receipt of this email you will be required to be present for an interview on Wednesday, March 20 at the below listed time. These interviews will take place at the offices of William D. Evans, 1185 South Main Street, Akron, Ohio 44301. You are required to answer all questions completely and honestly and assist investigators with any information they request. If you fail or refuse to forthrightly answer any and all questions asked you may be subject to disciplinary action up to and including termination of employment with the City of Independence.

If you are directed to take a polygraph as part of this investigation you are ordered to submit to a polygraph examination as directed and without delay. A violation of this order will be considered an act of insubordination, which could result in disciplinary action against you, up to and including termination of employment with the City of Independence.

You are further ordered not to discuss any aspect of this administrative investigation with anyone other than your department head or chief, attorney or designated union representative (if applicable). A violation of this order will be considered an act of insubordination, which could result in disciplinary action against you, up to and including termination of employment with the City of Independence.

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If you have any questions regarding these proceedings please address them directly with your department head or chief.

Employee: Leonard Mazzola

Interview time: 1000

Location: 1185 South Main Street, Akron, Ohio 44301

✓ LT LEONARD MAZZOLA

- ✓ Q1 COULD BOB PHILLIPS OR LT WILSON HAVE GIVEN THE "HARD COPY" OF THE PRE DISCIPLINARY NOTICE TO MEDIA?
- Q2 DID MEDIA ONLY HAVE THE "HARD COPY"?
- Q3 WTS THE VOCAL @ NOT WANTING TO WRITE UP DARTON? COPY STORED ON CHIEFS-
- media ONLY HAS A COPY OF MY EMAIL THAT WENT TO PTH
@ PUBLIC PROSECUTING - W/ THE SOUND.

✓ LT CHARLES WILSON

- Q1 DID HE HAVE THE "HARD COPY" OF PRO-D? MAYBE THAT MAZZOLA PUTTING
- Q2 COULD HE HAVE PROVIDED IT TO MEDIA?

For Union Rep for Supervisors

✓ PTH BRIAN DARTON (DENIES SPEAKING TO MEDIA) HIM WAS RECALL OF PRO-D MEM

- Q1 DID THE MEDIA GET MAZZOLA'S REPRIMAND ISSUED TO DARTON IN A HARD COPY OR ELECTRONIC COPY FORM IN WORK?
- Q2 MEDIA ASKED FOR THE "REPRIMAND" ... DID MEDIA REQUEST THE PRE-D IN THE PRR? YES
- Q3 BY REQUESTING THE REPRIMAND, MIGHT MEDIA HAVE WANTED TO NOT "TIP THEM HAND" THEY HAD ALREADY REC'D IT? (TO GET IT ALL LEGITIMATE)

✓ PTL SHANE BATES (DENIAL TALKING TO MEDIA)

- Q1 BY ADVISING MOTORISTS HE HAD A "QUOTA" WHEN ISSUING CITES WAS HE ~~NOT~~ ANGRY OR VOCAL ABOUT THIS "QUOTA" IN ANY OTHER WAY? (MOTORISTS CONFUSED IN COURT)
- Q2 CAN I GET A COPY OF THE INTERNAL MEMOS IE THE ONE BY LT MAZZOLA DIRECTING OFFICIALS TO HAVE 2.3/SHANE THIS DOCUMENT COULD ONLY GO TO MEDIA VIA LT MAZZOLA OR ONE OF THE SERGEANTS - WHO ARE THEY?

✓ Sgt Greg Tiniello

John Kurtz (injured) off

Dan Anders off

✓ Chris Cross (crossing leave, not available)

Ray ~~PAUL~~ ^{PAUL} ~~Anderson~~ previously disciplined for performance issues.

✓ Need
Lt Mazzola sent memo. only SGTs had it last mtg, but Chief was going to ask a Sgt for the copy -- Did Chief get the memo? From Tiniello. Got it

✓ Need
Chief's email to PAMC Division.

✓ Need
Org chart

✓ Bob Phillips

t/c of chief 3/12/19 Mc
2

Service Dept Worker Kitchen

did work for Henry went to mayor @
Henry ~~by~~ discussing @ the meeting @ how
Henry is trying to get the mayor

→ discussed WRT week w/ Mayor @

- ESSEX BRAN Spt. of BROOKLYN.
- on some are same RATES out.

Q

Q d/y discuss this memo w/ anyone other than
Ho

Running 3-8-19

~~this~~ DARTON's Regard to Henry Wrote up DARTON on 15:
Filing & meet performance excludes for
traffic excludes.

Notice to all 6 officers
DO

Henry is AST.

- ORC in unauthorized use of —

Bob Phillips is name of the immigration
- Administrative immigration per how private.

6800 Brecksville RD.
Independence, OH

LT: Chuck Withers my request permit

EVANS/PTA116

— D/Y Receive Any of this Notification

Q D/Y

Disarm w/ Rifle the upcoming
investigation

— D/Y Receive Any of this Notification

Q D/Y.

Discontinued by Rite-Hite the upcoming
investigation

1800

OHIO DEPARTMENT OF PUBLIC SAFETY		TRAFFIC CRASH REPORT		LOCAL REPORT NUMBER	
<input type="checkbox"/> PHOTOS TAKEN <input type="checkbox"/> SECONDARY CRASH		<input type="checkbox"/> OH-2 <input type="checkbox"/> OH-1P <input type="checkbox"/> OTHER <input type="checkbox"/> Private Property		LOCAL INFORMATION 6724 Brecksville Rd REPORTING AGENCY NAME INDEPENDENCE POLICE DEPT	
COUNTY * 18		LOCALITY * 1 CITY * 2 VILLAGE * 3 TOWNSHIP * INDEPENDENCE		CRASH DATE/TIME * 01/24/2019 01:19	
ROUTE TYPE SR		ROUTE NUMBER 21		CRASH SEVERITY 5 1 - FATAL 2 - SERIOUS INJURY SUSPECTED 3 - MINOR INJURY SUSPECTED 4 - INJURY POSSIBLE 5 - PROPERTY DAMAGE ONLY	
ROUTE TYPE SR		ROUTE NUMBER 21		CRASH SEVERITY 5 1 - FATAL 2 - SERIOUS INJURY SUSPECTED 3 - MINOR INJURY SUSPECTED 4 - INJURY POSSIBLE 5 - PROPERTY DAMAGE ONLY	
REFERENCE POINT 3 1 - INTERSECTION 2 - MILE POST 3 - HOUSE #		DIRECTION 2 1 - NORTH 2 - SOUTH 3 - EAST 4 - WEST		INTERSECTION RELATED <input type="checkbox"/> WITHIN INTERSECTION OR ON APPROACH <input type="checkbox"/> WITHIN INTERCHANGE AREA NUMBER OF APPROACHES	
DISTANCE FROM REFERENCE 10		DISTANCE UNIT OF MEASURE 2 1 - Miles 2 - Feet 3 - Yards		ROADWAY DIVIDED <input checked="" type="checkbox"/>	
LOCATION OF FIRST HARMFUL EVENT 01 1 - ON ROADWAY 2 - ON SHOULDER 3 - IN MEDIAN 4 - ON ROADSIDE 5 - ON GORE 6 - OUTSIDE TRAFFICWAY 7 - ON RAMP 8 - OFF RAMP		MANNER OF CRASH COLLISION/IMPACT 1 1 - NOT COLLISION BETWEEN TWO MOTOR VEHICLES IN TRANSPORT 2 - REAR-END		DIRECTION OF TRAVEL 2 1 - NORTH 2 - SOUTH 3 - EAST 4 - WEST	
WORK ZONE RELATED <input type="checkbox"/> WORKERS PRESENT <input type="checkbox"/> LAW ENFORCEMENT PRESENT <input type="checkbox"/> ACTIVE SCHOOL ZONE		WORK ZONE TYPE 1 - LANE CLOSURE 2 - LANE SHIFT/CROSSOVER 3 - WORK ON SHOULDER OR MEDIAN 4 - INTERMITTENT OR MOVING WORK 5 - OTHER		LOCATION OF CRASH IN WORK ZONE 1 - BEFORE THE 1ST WORK ZONE WARNING SIGN 2 - ADVANCE WARNING AREA 3 - TRANSITION AREA 4 - ACTIVITY AREA 5 - TERMINATION AREA	
LIGHT CONDITION 3 1 - DAYLIGHT 2 - DAWN/DUSK 3 - DARK - LIGHTED ROADWAY 4 - DARK - ROADWAY NOT LIGHTED 5 - DARK - UNKNOWN ROADWAY LIGHTING 9 - OTHER / UNKNOWN		WEATHER 4 1 - CLEAR 2 - CLOUDY 3 - FOG, SMOG, SMOKE 4 - RAIN 5 - SLEET, HAIL		CONTOUR 2 1 - STRAIGHT LEVEL 2 - STRAIGHT GRADE 3 - CURVE LEVEL 4 - CURVE GRADE 9 - OTHER UNKNOWN	
SURFACE 2 1 - CONCRETE 2 - BLACKTOP, BITUMINOUS, ASPHALT 3 - BRICK/BLOCK 4 - SLAG, GRAVEL, STONE 5 - DIRT 9 - OTHER UNKNOWN		MEDIAN TYPE 4 1 - DIVIDED FLUSH MEDIAN (<4 FEET) 2 - DIVIDED FLUSH MEDIAN (>4 FEET) 3 - DIVIDED, DEPRESSIONED MEDIAN 4 - DIVIDED, RAISED MEDIAN (ANY TYPE) 9 - OTHER / UNKNOWN		CONDITIONS 2 1 - DRY 2 - WET 3 - SNOW 4 - ICE 5 - SAND, MUD, DIRT, OIL, GRAVEL 6 - WATER (STANDING, MOVING) 7 - SLUSH 9 - OTHER/UNKNOWN	
NARRATIVE DRIVER OF UNIT #1 RAN OFF THE ROAD LEFT AND STRUCK THE MEDIAN. THE DRIVER CONTINUED ON TOP OF THE MEDIAN AND STRUCK TWO BRICK PLANTER BOXES CAUSING LISTED DAMAGE.					
CRASH REPORTED DATE/TIME: 01/24/2019 01:19 DISPATCH DATE/TIME: 01/24/2019 01:19 ARRIVAL DATE/TIME: 01/24/2019 01:21 SCENE CLEARED DATE/TIME: 01/24/2019 01:37					
TOTAL TIME ROADWAY CLOSED: 0		OTHER INVESTIGATION TIME: 30		TOTAL MINUTES: 46	
OFFICER'S NAME * S V Bates		CHECKED BY OFFICER'S NAME * S Bates		REPORT TAKEN BY <input checked="" type="checkbox"/> POLICE AGENCY <input type="checkbox"/> MOTORIST	
OFFICER'S BADGE NUMBER * 3953		CHECKED BY OFFICER'S BADGE NUMBER * 3953		<input type="checkbox"/> SUPPLEMENT (CORRECTION - ADDITION)	

HSY7001OH 1/19 [760-0820]

PAGE OF

EVANS/PTA119



MOTORIST / NON MOTORIST

LOCAL REPORT NUMBER

0190084

UNIT # 01	NAME LAST, FIRST, MIDDLE ESPER BRADLEY A		DATE OF BIRTH 01/13/1971		AGE 48	GENDER M
ADDRESS: STREET, CITY, STATE, ZIP 7681 CASCADE CREEK LANE INDEPENDENCE OH 44131			CONTACT PHONE - INCLUDE AREA CODE 4403912231			
INJURIES 5	INJURED TAKEN BY	EMS AGENCY (NAME)	INJURED TAKEN TO: MEDICAL FACILITY (NAME, CITY)	SAFETY EQUIPMENT USED 04	DOT-COMPLIANT MC HELMET	SEATING POSITION 01
OL STATE OH	OPERATOR LICENSE NUMBER RH021625	OFFENSE CHARGED	LOCAL CODE	OFFENSE DESCRIPTION	CITATION NUMBER	
OL CLASS 4	ENDORSEMENT SELECT UP TO 2	RESTRICTION SELECT UP TO 3	DRIVER DISTRACTED BY 1	ALCOHOL / DRUG SUSPECTED ALCOHOL MARIJUANA	CONDITION 1	STATUS TYPE VALUE STATUS TYPE RESULTS SELECT UP TO 4
UNIT #	NAME LAST, FIRST, MIDDLE		DATE OF BIRTH		AGE	GENDER
ADDRESS: STREET, CITY, STATE, ZIP			CONTACT PHONE - INCLUDE AREA CODE			
INJURIES	INJURED TAKEN BY	EMS AGENCY (NAME)	INJURED TAKEN TO: MEDICAL FACILITY (NAME, CITY)	SAFETY EQUIPMENT USED	DOT-COMPLIANT MC HELMET	SEATING POSITION
OL STATE	OPERATOR LICENSE NUMBER	OFFENSE CHARGED	LOCAL CODE	OFFENSE DESCRIPTION	CITATION NUMBER	
OL CLASS	ENDORSEMENT SELECT UP TO 2	RESTRICTION SELECT UP TO 3	DRIVER DISTRACTED BY	ALCOHOL / DRUG SUSPECTED ALCOHOL MARIJUANA	CONDITION	STATUS TYPE VALUE STATUS TYPE RESULTS SELECT UP TO 4
UNIT #	NAME LAST, FIRST, MIDDLE		DATE OF BIRTH		AGE	GENDER
ADDRESS: STREET, CITY, STATE, ZIP			CONTACT PHONE - INCLUDE AREA CODE			
INJURIES	INJURED TAKEN BY	EMS AGENCY (NAME)	INJURED TAKEN TO: MEDICAL FACILITY (NAME, CITY)	SAFETY EQUIPMENT USED	DOT-COMPLIANT MC HELMET	SEATING POSITION
OL STATE	OPERATOR LICENSE NUMBER	OFFENSE CHARGED	LOCAL CODE	OFFENSE DESCRIPTION	CITATION NUMBER	
OL CLASS	ENDORSEMENT SELECT UP TO 2	RESTRICTION SELECT UP TO 3	DRIVER DISTRACTED BY	ALCOHOL / DRUG SUSPECTED ALCOHOL MARIJUANA	CONDITION	STATUS TYPE VALUE STATUS TYPE RESULTS SELECT UP TO 4

1 - FATAL	1 - FRONT - LEFT SIDE (MOTORCYCLE DRIVER)	1 - NOT DEPLOYED	1 - CLASS A	1 - ALCOHOL INTERLOCK DEVICE	1 - NOT DISTRACTED	1 - NONE GIVEN
2 - SUSPECTED SERIOUS INJURY	2 - FRONT - MIDDLE	2 - DEPLOYED FRONT	2 - CLASS B	2 - CDL INTRASTATE ONLY	2 - MANUALLY OPERATING AN ELECTRONIC COMMUNICATION DEVICE (TEXTING, TYPING, DIALING)	2 - TEST REFUSED
3 - SUSPECTED MINOR INJURY	3 - FRONT - RIGHT SIDE	3 - DEPLOYED SIDE	3 - CLASS C	3 - CORRECTIVE LENSES	3 - TALKING ON HANDS-FREE COMMUNICATION DEVICE	3 - TEST GIVEN, CONTAMINATED SAMPLE / URUSABLE
4 - POSSIBLE INJURY	4 - SECOND - LEFT SIDE (MOTORCYCLE PASSENGER)	4 - DEPLOYED BOTH FRONT / SIDE	4 - REGULAR CLASS (OHIO = D)	4 - FARM WAIVER	4 - TALKING ON HAND-HELD COMMUNICATION DEVICE	4 - TEST GIVEN, RESULTS KNOWN
5 - NO APPARENT INJURY	5 - SECOND - MIDDLE	5 - NOT APPLICABLE	5 - M/C MOPEO ONLY	5 - EXCEPT CLASS A BUS & CLASS B BUS	5 - OTHER ACTIVITY WITH AN ELECTRONIC DEVICE	5 - TEST GIVEN, RESULTS UNKNOWN
1 - NOT TRANSPORTED / TREATED AT SCENE	6 - SECOND - RIGHT SIDE	6 - DEPLOYMENT UNKNOWN	6 - NO VALID OL	6 - EXCEPT CLASS A & CLASS B BUS	6 - PASSENGER	1 - NONE
2 - EMS	7 - THIRD - LEFT SIDE (MOTORCYCLE SIDE CAR)	7 - NOT EJECTED	7 - PLAZMAT	7 - EXCEPT TRACTOR-TRAILER	7 - OTHER DISTRACTION INSIDE THE VEHICLE	2 - BLOOD
3 - POLICE	8 - THIRD - MIDDLE	8 - PARTIALLY EJECTED	8 - M - MOTORCYCLE	8 - INTERMEDIATE LICENSE RESTRICTIONS	8 - OTHER DISTRACTIONS OUTSIDE THE VEHICLE	3 - URINE
9 - OTHER / UNKNOWN	9 - THIRD - RIGHT SIDE	9 - TOTALLY EJECTED	9 - PASSENGER	9 - LEARNER'S PERMIT RESTRICTIONS	9 - OTHER / UNKNOWN	4 - BREATH
1 - NONE USED	10 - SLEEPER SECTION OF TRUCK CAB	4 - NOT APPLICABLE	10 - TANKER	10 - LIMITED TO DAYLIGHT ONLY	11 - LIMITED TO EMPLOYMENT	1 - NONE
2 - SHOULDER BELT ONLY USED	11 - PASSENGER IN OTHER ENCLOSED CARGO AREA (NON-TRAILING UNIT, BUS, PICKUP WITH CAP)	1 - NOT TRAPPED	11 - MOTOR SCOOTER	11 - LIMITED - OTHER	12 - LIMITED - OTHER	2 - BLOOD
3 - LAP BELT ONLY USED	12 - PASSENGER IN UNENCLOSED CARGO AREA	2 - EXTRICATED BY MECHANICAL MEANS	12 - THREE-WHEEL MOTORCYCLE	13 - MECHANICAL DEVICES (SPECIAL BRAKES, HAND CONTROLS, OR OTHER ADAPTIVE DEVICES)	13 - MECHANICAL DEVICES (SPECIAL BRAKES, HAND CONTROLS, OR OTHER ADAPTIVE DEVICES)	3 - URINE
4 - SHOULDER & LAP BELT USED	13 - TRAILING UNIT	3 - FREED BY NON-MECHANICAL MEANS	13 - SCHOOL BUS	14 - MILITARY VEHICLES ONLY WITHOUT AIR BRAKES	14 - MILITARY VEHICLES ONLY WITHOUT AIR BRAKES	4 - OTHER
5 - CHILD RESTRAINT SYSTEM - FORWARD FACING	14 - RIDING ON VEHICLE EXTERIOR (NON-TRAILING UNIT)		14 - DOUBLE & TRIPLE TRAILERS	15 - MOTOR VEHICLES	15 - MOTOR VEHICLES	1 - AMPHETAMINES
6 - CHILD RESTRAINT SYSTEM - REAR FACING	15 - NONMOTORIST		X - TANKER / HAZMAT	16 - OUTSIDE MIRROR	16 - OUTSIDE MIRROR	2 - BARBITURATES
7 - BOOSTER SEAT	99 - OTHER / UNKNOWN			17 - PROSTHETIC AID	17 - PROSTHETIC AID	3 - BENZODIAZEPINES
8 - HELMET USED				18 - OTHER	18 - OTHER	4 - CANNABINOIDS
9 - PROTECTIVE PADS USED (ELBOWS, KNEES, ETC.)						5 - COCAINE
10 - REFLECTIVE CLOTHING						6 - OPIATES / OPIOIDS
11 - LIGHTING - PEDESTRIAN / BICYCLE ONLY						7 - OTHER
99 - OTHER / UNKNOWN						8 - NEGATIVE RESULTS



UNIT

UNIT # 0 1	OWNER NAME: LAST, FIRST, MIDDLE ESPER BRADLEY A	OWNER PHONE: INCLUDE AREA CODE 4 4 0 3 9 1 2 2 3 1
OWNER ADDRESS: STREET, CITY, STATE, ZIP 7681 CASCADE CREEK LANE INDEPENDENCE OH 44131		
COMMERCIAL CARRIER: NAME, ADDRESS, CITY, STATE, ZIP		
LP STATE O, H	LICENSE PLATE # EHW1699	VEHICLE IDENTIFICATION # 2 HNY D2 H5 6 B H 5 4 5 8 8 8
INSURANCE VERIFIED	INSURANCE COMPANY STATE FARM	INSURANCE POLICY # 68841629C1035P
VEHICLE YEAR 2 0 1 1	VEHICLE MAKE Acura	VEHICLE COLOR BLK
VEHICLE MODEL MDX	TOWED BY: COMPANY NAME HILLTOP	
TYPE OF USE <input type="checkbox"/> COMMERCIAL <input type="checkbox"/> GOVERNMENT <input type="checkbox"/> IN EMERGENCY RESPONSE	US DOT #	
INTERLOCK DEVICE EQUIPPED	HIT/SKIP UNIT	# OCCUPANTS 0 1
VEHICLE WEIGHT GVWR/GCWR 1 - <10K LBS. 2 - 10,001 - 26K LBS. 3 - >26K LBS.		
HAZARDOUS MATERIAL <input type="checkbox"/> MATERIAL RELEASED CLASS # <input type="checkbox"/> PLACARD ID #		
UNIT TYPE 1 - PASSENGER CAR 2 - PASSENGER VAN (MINIVAN) 3 - SPORT UTILITY VEHICLE 4 - PICKUP 5 - CARGO VAN 6 - VAN (3-15 SEATS) 7 - MOTORCYCLE 2-WHEELED 8 - MOTORCYCLE 3-WHEELED 9 - AUTOCYCLE 10 - MOPED OR MOTORIZED BICYCLE 11 - ALL TERRAIN VEHICLE (ATV / UTV) 12 - GOLF CART 13 - SNOWMOBILE 14 - SINGLE UNIT TRUCK 15 - SEMI-TRACTOR 16 - FARM EQUIPMENT 17 - MOTORHOME 18 - LIMO (LIVERY VEHICLE) 19 - BUS (16+ PASSENGERS) 20 - OTHER VEHICLE 21 - HEAVY EQUIPMENT 22 - ANIMAL WITH RIDER OR ANIMAL-DRAWN VEHICLE 23 - PEDESTRIAN SKATER 24 - WHEELCHAIR (ANY TYPE) 25 - OTHER NON-MOTORIST 26 - BICYCLE 27 - TRAIN 99 - UNKNOWN OR HIT/SKIP		
# OF TRAILING UNITS		
WAS VEHICLE OPERATING IN AUTONOMOUS MODE WHEN CRASH OCCURRED? 1 - YES 2 - NO 9 - OTHER / UNKNOWN AUTONOMOUS MODE LEVEL 0 - NO AUTOMATION 1 - DRIVER ASSISTANCE 2 - PARTIAL AUTOMATION 3 - CONDITIONAL AUTOMATION 4 - HIGH AUTOMATION 5 - FULL AUTOMATION 9 - UNKNOWN		
SPECIAL FUNCTION 1 - NONE 2 - TAXI 3 - ELECTRONIC RIDE SHARING 4 - SCHOOL TRANSPORT 5 - BUS-TRANSIT/COMMUTER 6 - BUS-CHARTER/TOUR 7 - BUS-INTERCITY 8 - BUS-SHUTTLE 9 - BUS-OTHER 10 - AMBULANCE 11 - FIRE 12 - MILITARY 13 - POLICE 14 - PUBLIC UTILITY 15 - CONSTRUCTION EQUIPMENT 16 - FARM 17 - MOWING 18 - SNOW REMOVAL 19 - TOWING 20 - SAFETY SERVICE PATROL 21 - MAIL CARRIER 99 - OTHER/UNKNOWN		
CARGO BODY TYPE 1 - NO CARGO BODY TYPE / NOT APPLICABLE 2 - BUS 3 - VEHICLE TOWING ANOTHER MOTOR VEHICLE 4 - LOGGING 5 - INTERMODAL CONTAINER CHASSIS 6 - CARGO VAN/ENCLOSED BOX 7 - GRAINCHIPS/GRAVEL 8 - POLE 9 - CARGO TANK 10 - FLAT BED 11 - DUMP 12 - CONCRETE MIXER 13 - AUTO TRANSPORTER 14 - GARBAGE/REFUSE 99 - OTHER/UNKNOWN		
VEHICLE DEFECTS 1 - TURN SIGNALS 2 - HEAD LAMPS 3 - TAIL LAMPS 4 - BRAKES 5 - STEERING 6 - TIRE BLOWOUT 7 - WORN OR SLICK TIRES 8 - TRAILER EQUIPMENT DEFECTIVE 9 - MOTOR TROUBLE 10 - DISABLED FROM PRIOR ACCIDENT 99 - OTHER/UNKNOWN		
NON-MOTORIST LOCATION AT IMPACT 1 - INTERSECTION-MARKED CROSSWALK 2 - INTERSECTION-UNMARKED 3 - INTERSECTION-OTHER 4 - MIDBLOCK - MARKED CROSSWALK 5 - TRAVEL LANE OTHER LOCATION 6 - BICYCLE LANE 7 - SHOULDER/ROADSIDE 8 - SIDEWALK 9 - MEDIAN/CROSSING ISLAND 10 - DRIVEWAY ACCESS 11 - SHARED USE PATHS OR TRAILS 12 - FIRST RESPONDER AT INCIDENT SCENE 99 - OTHER/UNKNOWN		
ACTION 1 - NON CONTACT 2 - NON COLLISION 3 - STRIKING 4 - STRUCK 5 - BOTH STRIKING & STRUCK 9 - OTHER / UNKNOWN 1 - STRAIGHT AHEAD 2 - BACKING 3 - CHANGING LANES 4 - OVERTAKING/PASSING 5 - MAKING RIGHT TURN 6 - MAKING LEFT TURN 7 - MAKING U-TURN 8 - ENTERING TRAFFIC LANE 9 - LEAVING TRAFFIC LANE 10 - PARKED 11 - SLOWING OR STOPPED IN TRAFFIC 12 - DRIVERLESS 13 - NEGOTIATING A CURVE 14 - ENTERING OR CROSSING SPECIFIED LOCATION 15 - WALKING, RUNNING, JOGGING, PLAYING 16 - WORKING 17 - PUSHING VEHICLE 18 - APPROACHING OR LEAVING VEHICLE 19 - STANDING 20 - OTHER NON-MOTORIST 21 - STANDING OUTSIDE DISABLED VEHICLE 99 - OTHER / UNKNOWN		
CONTRIBUTING CIRCUMSTANCES 1 - NONE 2 - FAILURE TO YIELD 3 - RAN RED LIGHT 4 - RAN STOP SIGN 5 - UNSAFE SPEED 6 - IMPROPER TURN 7 - LEFT OF CENTER 8 - FOLLOWING TOO CLOSE/ACCA 9 - IMPROPER LANE CHANGING 10 - IMPROPER PASSING 11 - DROVE OFF ROAD 12 - IMPROPER BACKING 13 - IMPROPER START FROM A PARKED POSITION 14 - STOPPED OR PARKED ILLEGALLY 15 - SWERVING TO AVOID 16 - WRONG WAY 17 - VISION OBSTRUCTION 18 - OPERATING DEFECTIVE EQUIPMENT 19 - LOAD SHIFTING / FALLING / SPILLING 20 - IMPROPER CROSSING 21 - LYING IN ROADWAY 22 - NOT DISCERNABLE 23 - OPENING DOOR INTO ROADWAY 99 - OTHER/IMPROPER ACTION		
SEQUENCE OF EVENTS 1 - OVERTURN/ROLLOVER 2 - FIRE/EXPLOSION 3 - IMMERSION 4 - JACKKNIFE 5 - CARGO / EQUIPMENT LOSS OR SHIFT 6 - EQUIPMENT FAILURE 7 - SEPARATION OF UNITS 8 - RAN OFF ROAD RIGHT 9 - RAN OFF ROAD LEFT 10 - CROSS MEDIAN 11 - CROSS CENTERLINE - OPPOSITE DIRECTION OF TRAVEL 12 - DOWNHILL RUNAWAY 13 - OTHER NON-COLLISION 14 - PEDESTRIAN 15 - PEDAL CYCLE 16 - RAILWAY VEHICLE 17 - ANIMAL - FARM 18 - ANIMAL - DEER 19 - ANIMAL - OTHER 20 - MOTOR VEHICLE IN TRANSPORT 21 - PARKED MOTOR VEHICLE 22 - WORK ZONE MAINTENANCE EQUIPMENT 23 - STRUCK BY FALLING, SHIFTING CARGO OR ANYTHING SET IN MOTION BY A MOTOR VEHICLE 24 - OTHER MOVABLE 25 - IMPACT ATTENUATOR / CRASH CUSHION 26 - BRIDGE OVERHEAD STRUCTURE 27 - BRIDGE PIER OR ABUTMENT 28 - BRIDGE PARAPET 29 - BRIDGE RAIL 30 - GUARDRAIL FACE 31 - GUARDRAIL END 32 - PORTABLE BARRIER 33 - MEDIAN CABLE BARRIER 34 - MEDIAN GUARDRAIL BARRIER 35 - MEDIAN CONCRETE BARRIER 36 - MEDIAN OTHER BARRIER 37 - TRAFFIC SIGN POST 38 - OVERHEAD SIGN POST 39 - LIGHT LUMINARIES SUPPORT 40 - UTILITY POLE 41 - OTHER POST, POLE OR SUPPORT 42 - CULVERT 43 - CURB 44 - DITCH 45 - EMBANKMENT 46 - FENCE 47 - MAILBOX 48 - TREE 49 - FIRE HYDRANT 50 - WORK ZONE MAINTENANCE EQUIPMENT 51 - WALL 52 - BUILDING 53 - TUNNEL 54 - OTHER FIXED OBJECT 99 - OTHER / UNKNOWN		
COLLISION WITH FIXED OBJECT - STRUCK		
FIRST HARMFUL EVENT		
MOST HARMFUL EVENT		

LOCAL REPORT NUMBER 0 1 9 0 0 8 4	
DAMAGE SCALE 1 - NONE 2 - MINOR DAMAGE 3 - FUNCTIONAL DAMAGE 4 - DISABLING DAMAGE 9 - UNKNOWN 4	
DAMAGED AREA(S) INDICATE ALL THAT APPLY	
<input type="checkbox"/> NO DAMAGE (0) <input type="checkbox"/> TOP (13) <input type="checkbox"/> UNDERCARRIAGE (14) <input type="checkbox"/> ALL AREAS (19) <input type="checkbox"/> UNIT NOT AT SCENE (16)	
INITIAL POINT OF CONTACT 1 - NO DAMAGE 1-12 - REFER TO UNIT DIAGRAM 14 - UNDERCARRIAGE 15 - VEHICLE NOT AT SCENE 99 - UNKNOWN 1 1	
TRAFFICWAY FLOW 1 - ONEWAY 2 - TWO-WAY 1	TRAFFIC CONTROL 1 - ROUNDABOUT 2 - SIGNAL 3 - FLASHER 4 - STOP SIGN 5 - YIELD SIGN 6 - NO CONTROL 6
# OF THROUGH LANES ON ROAD 2	RAIL GRADE CROSSING 1 - NOT INVOLVED 2 - INVOLVED - ACTIVE CROSSING 3 - INVOLVED - PASSIVE CROSSING 1
UNIT / NON-MOTORIST DIRECTION 1 - NORTH 2 - SOUTH 3 - EAST 4 - WEST 5 - NORTHEAST 6 - NORTHWEST 7 - SOUTHEAST 8 - SOUTHWEST FROM 1 TO 2	
UNIT SPEED 3 5	DETECTED SPEED 1 - STATED/ESTIMATED SPEED 2 - CALCULATED / EDR 3 - UNDETERMINED 1
POSTED SPEED 3 5	

William D. Evans II, Co., L.P.A.

Attorney at Law

May 22, 2019

Attn: Gregory J. O'Brien
 Law Director
 City of Independence
 6800 Brecksville Road
 Independence, OH 44131-5045

STATEMENT**FOR PROFESSIONAL SERVICES RENDERED [P.D. Investigation]:**

1/31/2019	Meeting (my office) with Chief Kilbane	2.0
2/8/2019	Received information from Chief Kilbane.	N/C
2/13/2019	Called Greg O'Brien - left message. Read/reviewed file; telephone conference with Greg.	N/C
	Email Contract for Professional Service to Greg O'Brien, Law Director.	N/C
3/5/2019	Prepared for meeting - read file completely.	1.0
	Meeting with Chief Kilbane and Letitia Linker 3:00-4:45	1.7
3/12/2019	Telephone conference with Chief Kilbane.	.5
3/13/2019	Left home at 5:45 a.m./back home at 6:15 p.m. plus mileage [72 miles r/t - \$39.24]	13.5
3/14/2019	Update (2 calls) Mike Esposito; telephone conference with Ron Kopp.	.5
3/15/2019	Telephone conference with Chief Kilbane.	.3
	Conference with Ken Butler.	.5
3/18/2019	Telephone conference with Chief Kilbane to confirm Lt. Mazzola is scheduled for interview (w/Bill) on 3/20/2019 @ 10 a.m. and a polygraph (w/Ken) at Noon. Copy of email from Chief to Lt. Mazzola re: 3/20/2019 appointment received.	N/C
	Telephone conference with Chief Kilbane and Letitia Linker.	1.1
3/19/2019	Conference meeting w/Ken Butler; prepare documents for interview, identify similarities thru highlights.	2.5
3/20/2019	9 a.m. to prepare for interview by Bill Evans and follow-up polygraph by Ken Butler; telephone conference with Chief Kilbane about the memo provided by Lt. Mazzola (email from Lt. Mazzola to Dispatch Patrol). Evans witnessed entire polygraph procedure and evaluated the Lt. Mazzola polygraph charts and scoring process in a Peer Review capacity; conducted post-test interview with Lt. Mazzola; including needed follow-up.	[9 to 5 p.m.] 8.0
3/22/2019	1 p.m. call to Mike Esposito to brief him about polygraph.	.6
	1:30 p.m. call to 216.524.1562 - teleconference with Mayor Togliatti, Chief Kilbane, Law Director O'Brien, H.R. Letitia Linker and Mike Esposito.	1.5
3/23/2019	Follow up with Chief at about 5:30 p.m.	.3
3/26/2019	Call to Greg O'Brien about W-9, etc.	N/C
NOTE	Several telephone conferences and status calls were not invoiced.....	N/C

34 hrs. @ \$275	\$9,350.00
Retainer	(5,000.00)
	\$4,350.00
72 miles r/t @ \$4.5 per mile	39.24
BALANCE DUE	\$4,389.24

Thank you!

William D. Evans, II, Esq.
 William D. Evans, II, Co., L.P.A.
 1185 S. Main Street
 Akron, OH 44301

*Please make checks payable to William D. Evans, II, Attorney at Law

GARRITY WARNING

You are required to respond to all questions asked of you in this administrative investigation. Further, you are required to assist investigators with any information they should request. If you fail or refuse to forthrightly answer any and all questions asked, you may be subject to disciplinary action up to and including termination from employment with the City of Independence.

However, in accordance with the United States Supreme Court's decision in *Garrity v. New Jersey*, 385 U.S. 493 (1967); your statement, as well as any information gained through your statement cannot be used against you in any criminal proceeding.

You are further ordered not to discuss this internal investigation with anyone other than your chain of command or attorney, including but not limited to witnesses or prospective witnesses. A violation of this order will be considered an act of insubordination, which could result in disciplinary action against you up to and including termination from employment with the City of Independence.

Your signature below declares that you have read and understood this warning prior to the initiation of any investigatory interrogation.

Date: 3/13/2019

Officer's Signature: Mazzola

Officer's Printed Name: LEONARD MAZZOLA

Witness: Simon

RECEIVED
28/9

1
From Chief

Bill,

HERE IS THE LIST OF OFFICERS
THAT YOU MAY WANT TO INTERVIEW AS
PART OF THE INTERNAL INVESTIGATION:

LT. LEONARD MAZZOLA - HE WAS THE SOLE
SOURCE OF THE PREDISCIPLINARY NOTICE THAT
MADE IT'S WAY TO THE MEDIA. HE WAS
HAND-DELIVERED A HARD COPY AND DID NOT
RECEIVE AN ELECTRONIC COPY. AS PART OF
THE DISCIPLINARY PROCESS HE COULD HAVE
PROVIDED A COPY OF IT TO BOB PHILLIPS,
THE FOP ATTORNEY AND LT. CHARLES WILSON,
HIS EMPLOYEE REP.

LT. CHARLES WILSON - THE EMPLOYEE REP
FOR LT. MAZZOLA DURING THE DISCIPLINARY
PROCESS.

PATROMAN BRIAN DALTON - HE WAS THE
~~THE~~ ONLY OFFICER ISSUED A REPRIMAND
FOR FAILING TO MEET PERFORMANCE
STANDARDS. LT. MAZZOLA ISSUED THAT
REPRIMAND AND THE REPORTER SPECIFICALLY
REQUESTED THE REPRIMAND AND NAMED PTL.
DALTON IN HIS PUBLIC RECORDS REQUEST.

2

INDICATING THAT THE REPORTER HAD PRIOR SPECIFIC KNOWLEDGE OF THE PERMITS

PATROLMAN SHANE BATES: HE RESSENTED ANY TYPE OF PERFORMANCE STANDARD, TELLING MOTORISTS THAT HE WAS ISSUING THEM A CITATION BECAUSE HE WAS FORCED TO BY A PERFORMANCE STANDARD. WHEN THE CITY PROSECUTOR QUESTIONED HIM ABOUT THE QUALITY OF SOME OF HIS CITATIONS HE TOLD THE PROSECUTOR THAT HE WAS UNDER A "QUOTA". HE WAS SUBSEQUENTLY CONVICTED ABOUT PROFESSIONAL TRAFFIC STOPS.

THE FOUR PATROL SERGEANTS WERE ALSO ISSUED A MEMO BY LT. MAZZOLA DIRECTING THEM TO HAVE THEIR OFFICERS HAVE "2-3 TRAFFIC ENFORCEMENT ACTIONS PER SHIFT". THIS SPECIFIC LANGUAGE WAS INCLUDED IN THE REPORTER'S STORY AND PUBLIC RECORDS REQUEST. THIS DOCUMENT COULD ONLY REACH THE MEDIA VIA LT. MAZZOLA OR ONE OF THE SERGEANTS. THOSE SERGEANTS ARE: GREG TINNIRELLO, JOHN KURTZ, DAN ANDERS AND CHRIS CROSS. ANDERS IS CURRENTLY

3

OFF ON AN INJURY LEAVE AND
WILL BE UNAVAILABLE.

Rosemary Abney

From: Rosemary Abney
Sent: Tuesday, March 05, 2019 9:18 AM
To: 'Michael Kilbane'; 'linkerl@independenceohio.org'
Subject: ON BEHALF OF BILL EVANS: RE: 3 p.m. meeting today

Chief and Ms. Linker: Bill asked that you bring (1) your Garrity Form or whatever you use for Garrity and (2) a schedule for each officer you anticipate having Bill interview in order to coordinate their schedules with his. Any questions, let me know. Thanks.

Rosemary S. Abney
Secretary
William D. Evans II, Co., LPA
1185 S. Main Street
Akron, OH 44301
330.434.4050
Fax 330.434.4611

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Rosemary Abney

From: Rosemary Abney
Sent: Friday, March 01, 2019 4:00 PM
To: Gregory J. O'Brien (gobrien@taftlaw.com)
Subject: City of Independence - Contract for Professional Services
Attachments: City of Independence Contract.pdf

ON BEHALF OF BILL EVANS, attached for your file is the Contract that he initialed. Thank you.

Rosemary S. Abney
Secretary
William D. Evans II, Co., LPA
1185 S. Main Street
Akron, OH 44301
330.434.4050
Fax 330.434.4611

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Rosemary Abney

From: O'Brien, Gregory J. <gobrien@taftlaw.com>
Sent: Wednesday, February 27, 2019 5:10 PM
To: Rosemary Abney
Cc: Bill Evans Law; Barone, Donna
Subject: RE: City of Independence - Contract for Professional Services
Attachments: William Evans - contract for professional services.pdf

Bill

Please see the attached. The City wanted to place a maximum amount in the contract. If that is acceptable please initial and return to me. Thank you.

Taft /

Gregory J. O'Brien / Partner
Taft Stettinius & Hollister LLP
200 Public Square, Suite 3500
Cleveland, Ohio 44114-2302
Tel: 216.241.2838 • Fax: 216.241.3707
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From: Rosemary Abney <RAbney@polytechassoc.com>
Sent: Thursday, February 14, 2019 11:24 AM
To: O'Brien, Gregory J. <gobrien@taftlaw.com>
Cc: Bill Evans Law <Bill@billevalslaw.com>
Subject: City of Independence - Contract for Professional Services

On behalf of Bill Evans, attached is the Contract for Professional Services which he has signed. Per your email late yesterday, please provide a copy signed by the Mayor together with the \$5,000 retainer. Thank you.

Rosemary S. Abney
Secretary
William D. Evans II, Co., LPA
1185 S. Main Street
Akron, OH 44301
330.434.4050
Fax 330.434.4611

Rosemary Abney

From: Michael Kilbane <kilbanem@independenceohio.org>
Sent: Wednesday, February 27, 2019 2:20 PM
To: Rosemary Abney
Subject: City of Independence agreement
Attachments: William Evans retainer agreement.pdf

Attached is a copy of the agreement signed by Mayor Togliatti and Law Director O'Brien. The finance department is processing the retainer check. Please let me know if any additional information is needed.

Thanks,

Chief Michael J. Kilbane
Independence Police Department

Rosemary Abney

From: Rosemary Abney
Sent: Thursday, February 14, 2019 11:24 AM
To: Gregory J. O'Brien (gobrien@taftlaw.com)
Cc: Bill Evans Law
Subject: City of Independence - Contract for Professional Services
Attachments: Independence Contract for Prof Services - to G. O'Brien.pdf

On behalf of Bill Evans, attached is the Contract for Professional Services which he has signed. Per your email late yesterday, please provide a copy signed by the Mayor together with the \$5,000 retainer. Thank you.

Rosemary S. Abney
Secretary
William D. Evans II, Co., LPA
1185 S. Main Street
Akron, OH 44301
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Shift of Paperwork

PAUL ORLOWSKI

Officer held accounts no officer initiated activity

Chief told him to be more vocal

eye team shows up, using vernacular out of
city language trying to create a
new story.

— Chief not happy.



F-3 2913

Illegal Access to Computer DATA
SYSTEM.

Wine & wine
706-3870

Cell 216 789 7879
Giles 08/11/19
(216) 244 7879
1/3/19 2538-1000

NOTES

32 police officers

Quota vs. Productivity

7/2018 Mayor said has no down - Mayor's Ct.

Chief met to LT. 400 pm 2017.

Chief told to the LT - come up w/ action plan and meet w/ Sgt.

LT sat 4 Sgts a memo - did not want

tell officers to get 2-3 traffic
activities / shifts.

yes
LOPS in crime.

Discipline for not following orders
on

LT said on me - D - of LT.

LT Learning ^{MAZZO} came up w/ excuses due to
his

LT got 360° from friends
on VW metal.

- Directed to come up w/ performance
standards for police.

⊕ - 10 tickets / guy per month were the performance
standard 30 tickets in
3 months was the goal.

LAST QTR 2018 was the end of

1917 20 PART to benchmarks

LT told me Jordan didn't meet

④ MAZZOLA

Someone else that was his out out

②

perform standards of orders to
LT. MAZZOLA & he did not want
to write up Brown about a
write-up.

next thing Chief knows. End GALLICK is in
my office

⑤

GALLICK's email had a chart that
GALLICK has that Chief sent
Chief but to all parties.

GALLICK had other emails.

12, 16, 17 work

④ #4 only
#1

had the document
A ME 1-2-19 memo.
to DARTON for disc.

④ #3

Bob Phillips BA
Charles Wilson Union Rep.

④ #4
#2

MAZZOLA sent
a memo to SGTs that chief wants
we do not have it. & to write 2-3 copy
actions per SGT.

④ #1
#3

GALLICK'S story refers to memo by
MAZZOLA to HVS SGTs

④ #4
#2

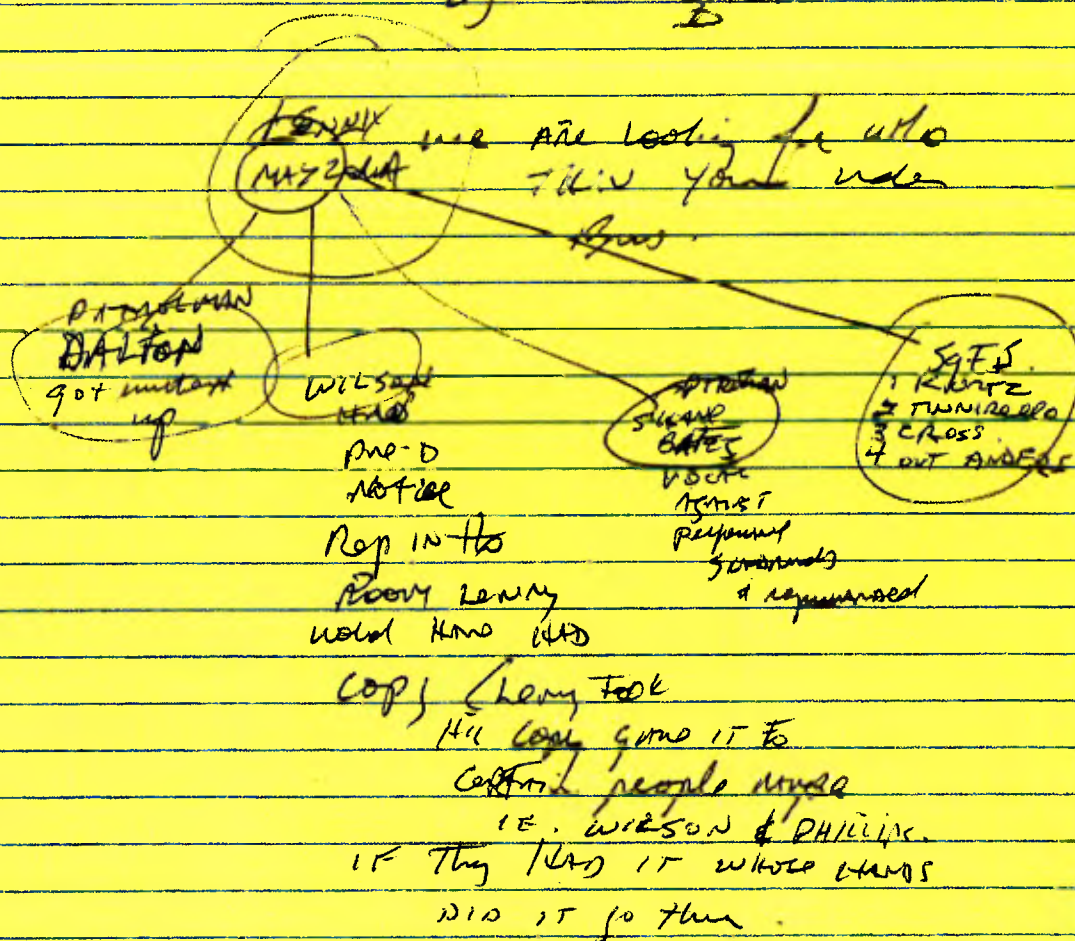
Chief email to MINOT Division

EEH
#3

GALLER ASKED for Dalton's quinn & letter
ISSUED to Dalton
Dalton said I did not turn to media.

on days leading up to this last MARCH
did not log in it never does.

(X) ORDER WAS sent out to log in
2 orders 1) before public news
2) one after.



Need Org chart

START interview of Don't you think
it's important to disseminate confidential
info to general public
sources.

CITY ADMIN HAS A BIG PROBLEM
MR. DILLON

- CHIEFS NOT THE PROBLEM

- the person who was inside chief
office was ^{POLICE DEPT CHIEF}
~~MAJ. AT~~
RANGER LT.

Michael Kilbane

From: Gallek, Ed <egallek@fox8.com>
Sent: Monday, January 14, 2019 11:08 AM
To: Michael Kilbane
Subject: discipline requests

I am requesting the pre-disciplinary and disciplinary paperwork for:

Lt. Mazzola—process started last August for Achieving Competent Performance Results, Insubordination, Knowing ... All Directives, Rules, Policies, Procedures, Practices, and Traditions

Officer Brian Dalton—filed recently concerning number of traffic stops/tickets written.

I am also requesting any other discipline for any other supervisors or patrol officers issued since last August regarding traffic stops/tickets written.

I am also requesting any grievances filed for any of these disciplinary issues or policies concerning the number of traffic stops/tickets written/performance expectations.

Thanks
Ed Gallek
FOX 8
216-403-3727

Michael Kilbane

From: Michael Kilbane
Sent: Friday, July 20, 2018 04:48 PM
To: Police
Subject: Communications with city administration and council members

Information from the police department to city leadership needs to be complete, accurate and coordinated, and all such dissemination should be done at the direction of the Chief or Deputy Chief. This is a reminder that all communication regarding any departmental business to the Mayor, department heads, City Council member or any other members of the city administration must be approved by myself or Deputy Chief Polak. No information regarding police operations, ongoing calls or incidents may be disseminated without approval of the Chief or Deputy Chief. Any texts or messages regarding police department business or operations sent from a personal device can open that device to disclosure under Ohio Public Records Law.

Please let me know if you have any questions.

Thanks,

Chief K.

**THE CITY OF INDEPENDENCE
DEPARTMENT OF POLICE**

GENERAL ORDER: 502
SUBJECT: Uniform Standards
of Conduct
EFFECTIVE DATE: April 2, 1999
REVIEWED: October 1, 2017

I. POLICY

To promote adherence to the Standards of Conduct through education, training, counseling, and enforcement.

II. PURPOSE

To provide employees of the Independence Police Department with clear Standards of Conduct that they are expected to observe.

III. PROCEDURES

A. UNIFORM STANDARDS OF CONDUCT

1. Affirmatively Promoting a Positive Public Image

Employees shall not be discourteous to members of the general public, and they shall conduct themselves (on duty as well as off duty) in a manner that does not damage or have the probable expectations of damaging or bringing the public image, integrity or reputation of the Independence Police Department into discredit or disrepute.

- a. Employees shall accept full responsibility for their behaviors and the results of their behaviors on duty as well as off duty. Behavior that may not be considered wrong in private employment could be wrong in the public sector because of the nature of the public service mission.

Historically, citizens are quick to criticize and require that public safety employees be “right” as well as look “right” in their conduct and behavior. Management recognizes its responsibility to balance standards of

conduct designed to promote public trust while at the same time to avoid unnecessary infringements on the employee's rights to privacy. At the same time, employees who which to hold the honor of a public position and enjoy the privileges of public trust share an affirmative responsibility to conduct themselves (on duty as well as off duty) in a manner that does not bring public image or trust into question. The employee's right to privacy does not create an obligation on management to finance those rights at the expense of effective, efficient, or safe operations of this department.

2. Aiding Other Employees

Employees shall, during the line of duty, come to the aid of another employee when necessary.

- a. The nature of public safety work frequently requires the support, assistance and safety of other employees. Knowing this support will be rendered in time of need promotes and maintains morale and a sense of well-being among all employees.

3. Alcohol Use and Related Conduct

Employees shall not possess or consume alcoholic beverages on duty or while in uniform on duty or off duty unless authorized. Nor shall any employee consume alcoholic beverages in proximate time to his or her reporting time for duty or report to duty with evidence of having consumed any alcoholic beverage.

- a. The consumption or possession of alcoholic beverages by public officials is high scrutinized by the public. Improper and excessive uses of such chemicals lead to severe criticisms of this Department and of all its employees. Because a large portion of public safety work depends on the employee's ability to evaluate critical situations and make judgments that often affect public confidence, life, liberty, and safety, it is critical that judgments be as unimpaired as practicable. The effects of alcoholic beverages interfere with this decision making ability.

4. Maintaining an Acceptable Level of Availability for Work

Each employee must maintain a satisfactory level of availability for work during any regular reporting period.

- a. Public safety work requires team effort, and each employee plays an important part as an employee of the team. Unless employees are regularly available for duty, work cannot go on effectively or efficiently. Excessive absenteeism causes unnecessary increases in official operating expenses. Employees who are excessively unavailable for work (regardless of cause) force others to carry their extra loads as well as tie up job opportunities and positions for more available personnel.

5. Committing or Condoning Illegal or Forbidden Harassment

Illegal or forbidden harassment (e.g., sex, race, religion, national origin, ethnic, disability or age) are prohibited as a basis for conduct, behavior, or decisions affecting another employee's or potential employee's terms or conditions of employment. Employees shall not use sex, race, religion, national origin, ethnic background, disability or age in their words, actions, gestures, conducts or behaviors that could be construed or perceived by another employee or potential employee as hostile, offensive or intimidating.

- a. It is management's right and responsibility to channel, control, and otherwise prohibit employee's behavior or conduct that has the potential to cause employer liability or disruption in the work force or to subject management to civil liability for violations of an employee's civil rights.

On-the-job or job related sexual, ethnic, racial, national origin, or religious harassment is a serious violation of an employee's, or potential employee's, civil rights.

6. Committing Unsafe Acts or Endangering Self or Others

Employees shall not commit acts or behave in such a manner that has the potential for endangering or injuring themselves, property, or another person.

- a. Safe behavior in public service work is paramount due to the level of public trust and the nature of the equipment involved (e.g., firearms, motor vehicles, impact tools, chemicals, etc.). Unsafe behavior and unsafe use and handling of equipment significantly increases the risk of injuries to citizens and personnel plus increases the risk of potential liability for this Department.

7. Conflicts of Interest

Employees shall not create conflicts of interest with the duties and obligations of their positions within this Department.

- a. Public service work requires that employees do not compromise the authority, integrity, trust, or confidence inherent in their offices. Public safety officials have easy and often uncensored and unquestioned access to people, information, resources and positions of trust not easily available to the general citizen. This "freedom of office" must be governed and controlled if the public trust is to be preserved. Failure to do so will severely restrict the ability of this Department to provide its services in an effective and efficient manner. When conflicts of interest occur between the employee's private rights as a citizen and privileged rights attributed to the employee's position with this Department, management attempts to bring about a reasonable balance, if possible. When this balance cannot be made and the employees' interests are in promoting their own personal interests, management must initiate action designed to promote the mission of the Department.

8. Co-Operation with Employees and Other Officials

Employees are required to affirmatively seek ways to cooperate and work with other employees, other public

officials, and employees of any organization with whom the employee or this Department needs to have a good working relationship in order to deliver lawful, effective, efficient, and safe services.

- a. The need to work in a cooperative manner with employees of other agencies and public officials is self-evident. In today's society, the effective, efficient and safe delivery of public services requires a coordinated effort of all employees and public service agencies.

9. Supervisors Shall Display Respect Towards Subordinate Ranked Personnel

Supervisors shall treat subordinates with the same courtesy and respect that is required of subordinates to display to supervisors. Criticisms of a employee or an employee's performances will be made directly to the subordinate and, when practicable, in a private setting.

- a. Employees who are treated with respect, concern, and courtesy are typically better performers and have higher morale. Supervisors who respect subordinates and limit criticisms to unsatisfactory work performances obtain higher levels of employee cooperation than those who direct their criticisms at the employee's person.

Because supervisors are management's representatives, higher levels of performance are expected of them in this area; and they are expected to set a positive example for others to follow.

10. Discriminating or Establishing Patterns of Discrimination in the Performance of Duties

In words, deeds, gestures, performance of jobs, duties, tasks and delivery of services, employees shall not discriminate; nor shall they establish a pattern of adverse impact in the delivery of services when such discrimination has a basis in such areas as a person's sex, ethnic background, race, color, national origin, lifestyle, preferred sexual orientation, religion, criminal history, age, disability or social status.

- a. Public employees must strive to maintain neutrality in the performance of duties and delivery of services to all persons regardless of their personal characteristics social status or work conditions. Discriminatory services and treatment of all citizens creates a serious threat to the well-being of all as well as exposes this Department to the possibility of civil and/or criminal action.

11. Dishonesty or Untruthfulness

Employees shall not lie, give misleading information, or falsify written or verbal communications in official reports or in their actions with another person or organization when such information may be relied upon because of the employee's position or affiliation with this Department.

- a. Public work is based on public trust and confidence. Performance standards in this area are much higher for public employees than for the ordinary citizen.

12. Displaying Competent Performance and Achieving Competent Performance Results.

Employees shall willfully display competent performance and consistently achieve competent performance results on all assigned or assumed job responsibilities, duties and tasks.

- a. In a public safety organization where much of the work effort involves citizens' liberties and physical safety, incompetent performance cannot be tolerated. When incompetent performance is discovered, its source must be dealt with effectively and efficiently or the potential of damage or injury exists. When this potential occurs, the organization runs the risk of incurring severe criticism, the loss of public trust and the creation of civil liability.

NOTICE: As the term is used here, competency is a characteristic of a performance outcome, not a characteristic of an individual.

Employees are hired to achieve results; and if an employee brings about an acceptable performance outcome, he or she has displayed the ability to apply his or her combination of knowledge, skill, and attitude

within the context of the situation to bring about a useful outcome for the organization. Knowledge, skill, and attitude are useless to the organization if the employee is unable to apply them in a productive manner.

13. Establishing Patterns of Absenteeism

Employees shall not establish patterns of absenteeism. Establishing a pattern of absenteeism is a violation of official standards regardless of whether any part of the absenteeism within the pattern has been approved or disapproved by management.

- a. All absenteeism affects the effective, efficient, and safe operations of this Department. The nature of public safety/security work requires a cadre of workers capable and ready to handle any established or expected service demanded by the public. Public personnel have specialized and specific training that cannot be easily replaced or substituted by other persons, and replacement or substitutions are usually difficult for management.

Management accepts the fact that a certain amount of "planned absenteeism" will occur in any organization, and in many cases the causes are justified by the nature of the individual and specific circumstances existing at the time. However, when an employee establishes patterns of absenteeism, management interprets this as substantial evidence of abuse and violation of this standard.

14. Physical and Mental Readiness to Perform Primary Duties and Tasks

Employees shall report to work and while working remain mentally, physically, and emotionally ready to assume and competently perform all their responsibilities, duties, and tasks.

- a. Effective, efficient and safe public service depends on employees being ready to perform competently and effectively at a moment's notice. Public trust and quite often threats to employee safety can occur in a public

safety organization if management had to wait for nonperformance to occur before testing and monitoring for readiness. It is reasonable and logical to assume that employees who are physically and mentally ready to perform will be better performers than those who are not as physically and mentally prepared.

Employees who lack the physical and mental capabilities to assume the responsibilities and duties expected of their jobs create a public safety hazard for themselves as well as others who may depend on their performance to provide an effective, efficient and safe protective service.

It will be job tasks that are performed on a regular basis that are used to determine in part the expected level of the employee's fitness and mental and emotional readiness. For example, it is reasonable to expect a uniformed employee (e.g., law enforcement officers, firefighters, emergency medical personnel) who encounter physical exertion on a regular basis to maintain a higher level of physical and mental readiness than perhaps an administrative employee whose regular duties are more sedentary in nature.

Conversely, the non-uniformed employee who deals daily with administrative decision is expected to be able to handle higher levels of administrative stress than perhaps the street officer or firefighter. It is reasonable to expect differences in their levels of performance because of the priority and repetitive nature of their daily tasks.

15. Giving a Full Day's Work for a Full Day's Pay

Employees shall give a full day's work for a full day's pay and not establish patterns of nonproductive work time.

- a. The concept of expecting employees to give a full day's work for a full day's pay is heavily embedded in joint American Labor/Management.

Although public work is typically reactive in nature, a large portion of non-responsive work time can be spent performing self initiated work. It is during self-initiated work periods that the preventive and deterrent

nature of protective and safety services is achieved and provides the creates opportunities to effectively and efficiently deliver services.

The concept of a full day's work for a full day's pay does not mean employees are expected to have identical levels of work from one day to the next. However, work patterns do exist and an analysis of data on a monthly, quarterly, semi-annual, or annual period provides a descriptive picture of the amount and type of work that can be reasonably expected from employees who are truly giving a full effort.

16. Insubordination

Employees shall willfully observe and obey the verbal and written rules, duties, policies, procedures, and practices of the Independence Police Department. They shall also subordinate their personal preferences and work priorities to the verbal and written rules, duties, policies, procedures and practices of this Department, as well as to the orders and directives of supervisors and superior command personnel of this Department. Employees shall willfully perform all duties and tasks assigned by supervisory and/or superior ranked personnel. Direct, tacit or constructive refusal to do so is insubordination.

- a. Employment is a mutual exchange of interests and benefits between management and its employees. In exchange for the privilege of employment and paid compensation, management has the right to expect employees to willfully perform the duties and tasks of their positions or any other task assigned and to achieve effective and efficient performance results. It is reasonable to expect employees to obey operational directives and the orders of the Department's supervisors. When disagreements between management and employees occur, management has the right to expect employees to follow the accepted labor principle of "obey now and grieve later".

Insubordination and insubordinate behavior are considered to be among the most serious offenses. If insubordination is allowed to go unchecked,

management loses control and authority over its work force.

17. Knowing, Observing, and Obeying All Directives, Rules, Policies, Procedures, Practices and Traditions

Employees shall display an affirmative, consistent effort to observe and comply with the directives, rules, policies, procedures, practices and traditions established for the effective, efficient, and safe operations of this Department. This standard applies to policies, procedures, and practices that are written as well as those established by past patterns or practices.

Affirmative effort as the term is used here means to self initiate acceptable ways to comply. In other words, look for ways to comply with the standard and not look for the exceptions to the standard.

- a. Policies, procedures, and practices are management's tools to achieve overall official efficiency and effectiveness in day-to-day operations and decision making. They are designed to communicate management's intent and to help management focus its resources.

18. Observance of Criminal and Civil Laws

Employees shall obey the constitutional, criminal and civil laws of the township, city, county, state, and federal government.

- a. Service and protection of the public, impartial administration and carrying out of duties, observing and obeying the very laws sworn to uphold, and providing equal service to all are covenants public officials have with citizens and are bound to honor if they wish to remain in public office. Officials who violate those very laws and canons that they are sworn to uphold and observe destroy public faith and respect for this Department and weaken this Department's ability to perform its service mission.

19. Courteous and Respectful Behavior Toward Positions of Authority

Employees shall be subordinate and display courtesy and respect in words, deeds, gestures, and actions towards personnel holding higher levels of official authority.

- a. The purpose of supervisory positions is to ensure reasonably that the mission, goals and directives of this Department are carried out in an efficient, effective, and safe manner as well as to provide accountability for the performance of the work unit.

Management requires subordinates to display respect and courtesy to higher positions because it provides a sense of order as well as serves as a tangible indication that subordinates are willing to subordinate personal priorities, goals, and objectives to the needs and mission of this Department. In addition, the willingness and ability of an employee to subordinate personal interests and to display respect and courtesy to a supervisor is a reasonable assessment of the employee's capabilities to set aside personal feelings and priorities when dealing with citizens.

20. Use or Unlawful Sale or Possession of Illegal or Unauthorized Drugs

Employees shall not unlawfully possess, sell, consume, use or assist in the use of any illegal or unauthorized drugs or medications on duty or off duty. Nor shall any employee consume any unauthorized drug or medication in proximate time to his or her reporting time for duty, nor shall he or she report to duty with evidence of having consumed such drugs or medication.

NOTE: Unauthorized means any substance, drug or medication that is illegal to possess as well as any legal substance, drug or medication that is used without medical approval as well as drugs used without the knowledge of management.

- a. The illegal and improper use of drugs is a national problem. Public officials who are known to use illegal drugs or use authorized drugs in an improper manner subject this Department to severe public criticism and damage the image of the total Department. By its very nature, public safety work depends on the employee's ability to evaluate critical situations and make judgments that affect public confidence and often citizen's lives, liberties and safety. It is critical that judgments be as unimpaired as practicable and free from the adverse effects of any drugs.

21. Use and Care of Property and Equipment

Employees are accountable for the proper use and care of any property or equipment assigned to them, used by them, or under their direct or constructive care.

- a. Constructive care means caring for equipment not being used, found, left unattended, or unsupervised. All employees are accountable for assuming the care for such equipment and are required to take action affirmatively to return it to its place of proper storage.

Property means tangible and intangible ownership of goods, rights, or privileges of this Department (e.g., tools, weapons, copyrights, logos). Equipment is the tool by which this Department is able to accomplish its objectives and mission and represents a capital investment of public resources.

Management has the specific right and inherent interest in assuring the public that its equipment will be cared for and used in an effective, efficient and safe manner. Part of this responsibility includes designating what equipment will be used, how it will be used, who shall and shall not use Department equipment or property, and how it shall be cared for while entrusted to an employee.

Approved by the Order of:

Chief of Police, Mike Kilbane

**THE CITY OF INDEPENDENCE
DEPARTMENT OF POLICE**

GENERAL ORDER: 108
SUBJECT: Media Relations
EFFECTIVE DATE: September 5, 2011
REVIEWED DATE: November, 1, 2015

I. POLICY

To inform the news media of events which occur within our jurisdiction in a timely manner, with accuracy, and with as much detail as allowed by the circumstances.

II. PURPOSE

To provide Police Department personnel with guidelines to follow during interactions with the media.

III. PROCEDURES

A. General

1. The Department is committed to informing the community, and the news media, of events within the public domain that are handled by or involve the Department. The release of information to the media shall be governed by standards that respect ORC 149.43.

B. Public Information Responsibility

1. The Chief of Police is responsible for the public information function.
2. In the absence of the Chief of Police, the Officer-in-Charge shall:
 - a. Provide the media with the legally required amount of basic information.
 - b. Advise the media that the incident is under investigation, and
 - c. That no further information is available at this time, and

- d. That they will be contacted when more information is available.
 - e. The Officer-in-Charge shall leave a report for the Chief of Police advising him of the information released and to whom it was released to. This report may be in written form or an e-mail.
- 3. Should a critical incident or serious situation occur that generates a great deal of media interest, the Chief of Police shall be contacted to handle the media inquires at the scene or to advise the Officer-in-Charge on the scene of the information which may be released.
- 4. News media questions regarding ongoing criminal investigations shall be handled by the Chief of Police in conjunction with the Commander of the Detective Bureau and the appropriate prosecutor's office.
- 5. Only the Chief of Police may release information relating to internal personnel files and investigations.
- 6. Personnel assigned to the Communications Center or the Front Office who receive telephone inquiries from the media shall:
 - a. Transfer the phone call to Chief of Police, if he is available;
 - b. If the Chief is not available, transfer the phone call to the Officer-in-Charge, or the Detective Bureau OIC.
 - c. If the Officer-in-Charge is not available, take the name, phone number, and media affiliation of the party calling and advise him that the Officer-in-Charge will return his call shortly; and
 - d. Under no circumstances are personnel assigned to the Communications Center authorized to release any information without the approval of the Officer-in-Charge; unless there is a press release that has been approved by the Chief of Police, or his designee.
- 7. Telephone calls from the media should be returned with as little delay as possible.

8. Anytime a representative of the media is denied access to certain information, as outlined in this order, that representative shall be given a courteous explanation of the reasons for such denial.

9. The Chief of Police or his designee shall prepare media releases concerning newsworthy events or incidents where minimal information was given out.

10. Personnel of the Police Department shall not submit to personal interviews or write letters to editors without first consulting with the Chief of Police under the following conditions:

- a. That person is representing himself as an employee of the City of Independence and
- b. The content of the letter or interview involves City issues.

C. Frequency of Dissemination of Information to the Media.

The Chief of Police shall determine the frequency and content of media releases. Information shall be released to the media when it becomes available and is determined by the Chief of Police to be of importance to the media. Information shall be made available to all media sources on an equal basis.

D. Access of the Media to Incident Scenes

1. The Officer-in-Charge of the shift or his designate shall control the access of the media at the scene of a crime, accident, or other incident that is under the control of the Department.
2. The news media shall be denied access under the following circumstances:
 - a. If the owner of the private property requests they be excluded; and such exclusion is in conformity with the law.
 - b. If there is a possibility evidence will be damaged, tampered with or removed from the scene of a crime, or the investigation will be hampered; and
 - c. During an in-progress incident, if the media's presence would disrupt operations, or place a citizen or Police Officer in substantial risk of injury or loss of life.

E. Guidelines for Disseminating Information to the Media

1. In instances where members of the Department are actively involved or have just concluded with an incident, care should be used before speaking with media representatives.
 - a. All reports containing the pertinent information on the incident shall be completed prior to conversing with the media to ensure that any information given out is accurate and consistent.
 - b. If the Chief of Police is not available, the Officer-in-Charge shall release a minimum amount of information and consult with the Chief of Police concerning what other information is appropriate for release.
2. The following guidelines shall be followed when releasing information:
 - a. Information which may be released:
 1. Edited information concerning criminal acts and traffic accidents that is contained on the face of the offense/incident report and traffic accident report forms;
 2. A brief description of the incident to include location, time, injuries sustained, or damages resulting from incident;
 3. Identity of victim **after** notification of the family;
 4. Whether there are suspects or not;
 5. Information concerning unidentified suspects to include a general description, vehicle description and other pertinent information;
 6. Identification and photograph of a fugitive from whom a warrant had been issued; and
 7. The name of the Officer-in Charge of the investigation.

b. Information which may not be released

1. Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness or a confidential information source.
2. Information concerning an ongoing investigation, whether it be a crime or traffic accident, shall not be released if the information would jeopardize the investigation or prosecution of a subject;
3. The identity of suspects who have not been charged;
4. Information on matters that are currently in litigation in the courts.
5. Information that may incur liability upon the City.

c. Information Not Released Without Proper Authorization:

1. Names of City employees involved in accidents without approval of the Law Department; and
2. Information regarding personnel of this Department and internal investigations.

d. Information released after arrest and charged:

1. Time and place of the arrest;
2. The arrestee's name, age, sex, residence and charges may be released.
3. The circumstances surrounding the arrest, such as place of arrest, resistance, pursuit, use of weapons, and evidence seized may be released if this information will not hinder the outcome of the case; and
4. The name of the arresting officer and the probable duration of the investigation.

e. Information not released after arrest;

1. Information regarding the character, reputation, or prior criminal record of the defendant;
2. Photographs of the accused;
3. Confessions, statements, or refusal of same by the accused.
4. Results of any test or examinations taken by or given to the arrestee.

Approved by the order of:

Mike Kilbane,
Chief of Police

**THE CITY OF INDEPENDENCE
DEPARTMENT OF POLICE**

GENERAL ORDER: 601

**SUBJECT: Records Security and
Privacy**

EFFECTIVE DATE: April 2, 1999

REVIEWED: February 1, 2018

I. POLICY

To establish security and privacy measures for police records and to protect the integrity of the information contained therein; thusly protecting the privacy and rights of individuals who may be identified in the file.

II. PURPOSE

To define the various security and privacy measures for the Records Unit and to direct any department members who may interact with records.

III. PROCEDURES

A. Unauthorized Dissemination of Information Prohibited

1. No information is to be released to any person outside of the department except as may be authorized by practices established by the Chief of Police.
 - a. The Chief of Police is the Department's designated Public Information Officer, unless so delegated by him/her to someone else.
2. Records may not be copied and held by members of the department without permission of the Chief.
 - a. This does not apply to officers working within the scope of their duties.
3. Persons copying or releasing information in an unauthorized manner may be disciplined.

B. Unauthorized Destruction or Theft of Records Prohibited

1. Offenses that are punishable under the law (Ohio Revised Code Section 2913.42, Tampering with Records) will be investigated and may result in criminal and/or administrative action.

C. Access to Records

1. Only the following personnel are authorized direct access to departmental records stored in the archives. (All other personnel shall request that the records be accessed by authorized personnel.)
 - a. The Chief of Police, Deputy Chief, Lieutenants, and Record Clerks.

D. Criminal History Information

1. This department utilizes the Ohio Computerized Criminal History (CCH) available through LEADS and the Interstate Identification Index (III) available through NCIC.
2. Criminal History information available through either of these computerized files will only be obtained and disseminated according to procedures and restrictions established by LEADS and NCIC.
3. Any person obtaining or disseminating criminal history information contrary to those procedures and restrictions will be subject to internal investigation.

Approved by order of:

Mike Kilbane,
Chief of Police

**THE CITY OF INDEPENDENCE
DEPARTMENT OF POLICE**

GENERAL ORDER: 602

SUBJECT: Report Release Procedures

EFFECTIVE DATE: April 2, 1999

REVIEWED: February 1, 2018

I. POLICY

To prepare and make available all police department public records in an efficient and timely manner staying within the Ohio Sunshine Law.

II. PURPOSE

To advise personnel of the requirements contained in Section 149.43, Availability of Public Records, and to provide an internal system for responding to requests for inspection from members of the public.

III. PROCEDURE

A. Public Records

1. Definition "Records"

- a. Includes any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, function, policies, decisions, procedures, operations, or other activities of the office.

2. Definition "Public Record"

- a. Means any record that is kept by any public office, included, but not limited to state, county, city, village, township, and school district units, except medical records, records pertaining to adoption, probation, and parole proceedings, records pertaining to actions under section 2151.85 of the Revised Code and to any Appeals actions arising under that section, records listed in Chapter 3107 of the Revised Code, trial preparation records, confidential

law enforcement investigatory records, records containing information that is confidential under section 4112.05 of the Revised Code, and records the release of which is prohibited by state or federal law or further exempted in ORC 149.43A1.

B. Availability

1. All public records shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Upon request, a member of the department who is authorized by the Chief of Police shall make copies available at the established cost, within a reasonable amount of time.
 - a. All established costs associated with the release of public records, which are maintained by the department, are set by the City Finance Department.
 - b. Record availability shall also conform to the record retention schedule established by the City Of Independence's Public Records Committee.
2. The regular business hours for the Records Bureau are from 8:00am to 4:00pm, Monday through Friday, excluding any holiday adjustments that will be posted.
3. If a citizen allegedly is aggrieved by the failure of a member of the department to promptly prepare a public record, maintained by the department, the citizen shall:
 - a. Request a meeting with the lieutenant in charge of the Records Bureau and advise him of the complaint. If the citizen is still not satisfied with the results they then:
 - b. Request a meeting with the Chief of Police. If the citizen is still not satisfied with results, they shall be requested to place their complaint into written form and it shall be forwarded to the HR and Mayors Office for reconciliation.
 - c. Allegedly aggrieved citizens shall also be advised that ORC 149.43 provides a legal means for addressing their complaints in these disputes.

C. Confidential Law Enforcement Investigatory Records

1. No member of the department is authorized to release any public record maintained by the department which contains information that is classified as a Confidential Law Enforcement Investigatory Record.
2. Confidential law enforcement record means any record that pertains to a matter of a criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:
 - a. The identity of a suspect who has not been charged with an offense to which the record pertains, or information source or witness to whom confidentiality has been reasonably promised.
 - b. Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose his or her identity.
 - c. Specific confidential investigatory techniques or procedures specific to investigatory work product.
 - d. Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.
3. Employees of the department, who are authorized to release public records maintained by the department, shall take the appropriate action to ensure that confidential law enforcement information is not released. Excluded information shall be redacted from releasable information in the following manner:
 - a. After reviewing the requested record and determining that it contains non-releasable information, the releasing employee shall make a copy of all pages containing the excluded information.
 - b. The releasing member shall then place the date, their badge number, initials, and the name (if given) of the requester (person seeking the information) on the reproduced page.

- c. The releasing member shall then color over the restricted information on the reproduced copy with a black marking pen in a neat manner.
- d. The releasing member shall then reproduce a copy of this page which shall be the page that is released to the requester.
- e. The first reproduction page, which is the worksheet, shall then be attached to the original report, which is maintained by the department.

D. General exceptions to the Release of Public Records

- 1. Members of the department are not authorized to release any investigatory report falling under the following criteria:
 - a. During the pendency of a criminal case, information subject to discovery pursuant to Crim. R. 16 is not a public record.
 - b. During the investigation of a criminal case, both before and after criminal charges are initiated, law enforcement records are not public records under the work product exception, except for routine offense and basic incident reports.
 - c. After the defendant has been convicted, records which are not discoverable under Crim. R. 16 are still not public records until all appeals and post-conviction proceedings are completed.
- 2. All requests for police investigatory reports in which criminal prosecution is pending, or possible, shall be handled as follows. This request shall be reviewed by the Detective OIC or by the Chief of Police. Only with the approval of the Det. OIC or Chief of Police shall any information, other than what is allowed above, be released.

E. Access

1. Police Records Bureau

- a. All requests for public documents maintained by the department shall be directed to the Records Bureau.
 - i. All persons requesting to review, and/or gain copies of public records shall be requested to place their request in writing, on a form provided by the Independence Police Department.
 - ii. If the requesting persons refuse to place the request in writing, a member of the department shall complete the form, by asking the requester for the required information.
 - iii. No person shall be refused access to public records based on their refusal to submit a written request for the records.
- b. Persons requesting public records maintained by the department, but not as part of the general retention of the Records Bureau, shall have their request forwarded to the office of the Administrative Lt.
 - i. Persons requesting public records that are maintained in an area other than the Records Bureau shall be advised that their request shall normally be reviewed and processed within three to five days.
 - ii. This time period is provided to allow the administrative staff adequate time to search, review, and copy the requested public records.

F. Video, Audio Tapes, Photographs, and Computer Media

1. The department maintains a limited storage of audio, video tapes and computer media.

2. Persons requesting copies of these records may be required to furnish blank recording tapes or discs of sufficient quality, to allow reproduction of the requested material.
3. Costs shall be determined on a request basis, following the guidelines established in this policy.
4. Photographs
 - a. Persons requesting photographs pursuant to this policy shall be charged only the actual cost incurred by the department for the reproduction of these photographs.

G. A.D.A. Compliance

1. The Independence Police Department shall facilitate all requests made by all citizens, regardless of handicap or disabilities. Departmental personnel shall take all reasonable steps to ensure that no one is denied access to public information on the basis of a handicap or disability.
2. The department shall follow all standards and guidelines established by local, state and federal laws or mandates, as it pertains to the Americans with Disabilities Act, and any other applicable laws.

Approved by the order of:

Mike Kilbane,
Chief of Police

- INFO: WH ENVS. INV. ATTORNEY. PTE; Hired to INV. UNAUTH DISSEMINATION (PRR)
- GARRITY ^{INTERVIEW} OR NOT INV UNDER 2913.04 (From phone)
- READ the ORDER (From phone)
- Generally the first interview is INFORMATION GATHERING, AND A SECOND INTERVIEW IS NECESSARY AFTERWARDS, LATER ON.
- NAME RANK DATES of EMPLOYMENT; AND EMPLOYMENT
- FORMS FOR reference, TAPES FOR MY NOTES WONT B
- EXH 0 ORDER DISCUSSED.
- EXH 1 from MAZZONE to SGT KURT @ Producing on Sgt suit.
- 2 to PATROL DIV from CHIEF @ officer activity.
- 3 DALTON ~~PERFORMANCE~~ PERFORMANCE STANDARDS (EXPECTATIONS)
- 4 K MAZZONE PRE-D NOTICE (Language is in EXH 5)
- 5 GALLER PRR

6 ORC 2913.04 HIGHLIGHT AREA

Q HAVE

IS IT PERMISSIBLE FOR AN OFFICER TO PROVIDE INTERNAL AFFAIRS INFORMATION, (FOR PROPRIETARY & PURPOSES ONLY) TO OUTSIDERS?

ALL
BATES

✓ Q IS EXH 1, 2, 3, 4, 5, 6 AN INTERNAL PROPRIETARY POLICE CITY COMMUNICATION? WHY?

✓ Q CAN YOU THINK OF A LEGITIMATE REASON WHY ~~THE POLICE~~ ANYONE WOULD WANT CITY PROPRIETARY INFO SENT OUTSIDE THE DEPT

✓ Q ANY THOUGHT ABOUT WHY EMPLOYEES SHOULD BE PRODUCTIVE, OR SHOULD NOT BE PRODUCTIVE FOR THE BENEFIT of the community they serve?

✓ Q IF AN OFFICER OF THIS DEPT PROVIDED THE PRESS WITH EXH 1 2 3 4 TO THE PUBLIC, IS THAT A PERSON TO BE DISCIPLINED FOR THE PERSON WHO DISSEMINATED.

GARRITY WARNING

You are required to respond to all questions asked of you in this administrative investigation. Further, you are required to assist investigators with any information they should request. If you fail or refuse to forthrightly answer any and all questions asked, you may be subject to disciplinary action up to and including termination from employment with the City of Independence.

However, in accordance with the United States Supreme Court's decision in *Garrity v. New Jersey*, 385 U.S. 493 (1967); your statement, as well as any information gained through your statement cannot be used against you in any criminal proceeding.

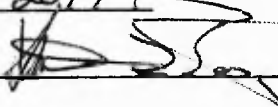
You are further ordered not to discuss this internal investigation with anyone other than your chain of command or attorney, including but not limited to witnesses or prospective witnesses. A violation of this order will be considered an act of insubordination, which could result in disciplinary action against you up to and including termination from employment with the City of Independence.

Your signature below declares that you have read and understood this warning prior to the initiation of any investigatory interrogation.

Date:

03/13/2019

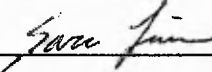
Officer's Signature:



Officer's Printed Name:

SHANE BATES

Witness:



SHANE BATES.
7⁰⁰ AM
3-13-19

SARA LIVA

SHANE w/ city 1MO 2003

Boston HTS 5/2001 - 2003 SPT Chief Planner
MARSHALLVILLE 1/2001 - aug 01.

don't know @ this veg migration.

EXH 1 @ Aug 8th I SAW IT Around Then.

IN ENVI or HARRY or with outside counselor's office
ON WALL (AT MAZZOLI).

2 I SAW this in my ENVI. & on door/wall

3 I don't Recall maybe if IT was trying at

4 I don't Recall

I drove Darius's Cruiser & it fell from the
VISION. w/ item 5 3 & 4. @ Jan 15 2018.

- I've never made copies of ABOVE.

- I agree they are proprietary.

- I did not disseminate nor do I know who

- There were jokes @ quotes Toked

"Bons"

I never took my seriously.

- Why are they proprietary? Ans they are internal in nature.

- I've been one of the most
motivated employees here at PD.

- when Darius was written up he was motivated
@ it.

- Why I personally don't have a problem w/ poly.

EVANS/PTA169

Internal Investigation Pre-Interview

Name SHANE BATES Shift 6p - 6a
Department PATROL POLICE Division P/T W HUMAN TRAFFICKING
Date 3-13-19 Time 7⁰⁰ AM Location CITY HALL
Interviewer EVANS Title _____

You are the subject of an administrative investigation. The known allegations are:

DISTRIBUTION/DISEMINATION/DISCLOSURE OF PROPRIETARY
POLICE INFORMATION/DOCUMENTS.

Ask the employee if he/she wants a labor representative. Yes ☒ No ☐
If yes, representative's name SARA LIVA Phone _____
Department BOS PHILLIPS OFFICE SARA LIVA Division _____

If a request for a labor representative is made, do not interview until a representative is available.
Concluded at _____ Rescheduled for _____

=====

You are being interviewed as part of an official administrative investigation by the MAYOR'S OFFICE
THAD W.D. EVANS, JR.. This investigation is being handled by the
representatives from Poly-Tech Associates, Inc. You will be asked questions relating to the
performance of your official duties or fitness for office. If you refuse to answer questions completely and/or
accurately, you may be subject to disciplinary action up to and including dismissal. Statements provided
under threat of disciplinary action may not be used against you in any subsequent criminal proceedings.

=====

Signature of employee: [Signature]
Date 03/13/19
Signature of witness: X _____
Date 3-13-19

=====

Interview breaks: Stop _____ Start _____ Stop _____ Stop _____
Interview completed at: 740 AM
Tape recording made of the interview? Yes _____ No _____
If yes, tape recording made by: _____

Signature of interviewer: X _____

Employee to receive a copy of completed form.

1072

Brine Dutton

Did you have a copy of Henry's Pro D.
w/out same 9/2/93

B-4 w/PA per company

B-4 in Air Force

- THIS ISIA. Cont remove my other except copies so.
Destroyed evidence @ Chief Dugan @ 10 yrs ago.
all of us on the case

Ex 1 Did see it B-4 yes all for SGT got a copy
I saw it when SGT went over it w/me & others collectively
my SGT is ANDERS.

Ex 2 I don't recall the EXHIBIT BOOK, I don't recall seeing it
before

Ex 3 I saw it I saw it

Ex 4 Do not recall seeing it ever.

I had gone Broder surgery 1/7/19 I went to
Hospital @ 5pm on 1/7/19. Rick Prael
took over my shift I think. I only had
copy w/Chief. I put my copy in
a small envelope I put it in my
locker w/my gunnery & I put the
envelope in my box at Police on a
Friday 1/11/19 on Friday 1/19. I didn't
seal the envelope. my only copy was in
the envelope. I never saw Ex 4 before.

Did you ever told it put in Courier visor
I thought I put it in my box maybe I
put it in my visor But I never saw
item 4 I think I did not it because my visor.

2 of 2

Darren

would you agree of 1; 2 me inter 1.0

I have not directly or indirectly discussed
1.4

I would not you to find out what sent out
my write-up measure

news report @ quota.

I'm not a fan of Slack.

(*) I didn't tell the media @ my write up
only Sgt ~~Blair~~ my SGT.

(2) myself.

(3) chief.

(4) LT MAZZOLA.

permanently
Brilliant
over 1/2 HR
at the P.D.

(*) I don't KFC if I put it above my
visor.

says he (JIM STAN) BRUCE & DON'T TRUST HIM

I had no reason to tell the media.

so you think the COURT- Aired you dirty, Wanda?

? but
man
would be
more
savage
He would
PDA it.

NOT ME !!!

MAZZOLA I don't think so.

my other narrative ^{MS} NO

Don't know Between MAZZOLA EVANS/PTA172

Don't know Between MAZZOLA EVANS/PTA172

GARRITY WARNING

You are required to respond to all questions asked of you in this administrative investigation. Further, you are required to assist investigators with any information they should request. If you fail or refuse to forthrightly answer any and all questions asked, you may be subject to disciplinary action up to and including termination from employment with the City of Independence.

However, in accordance with the United States Supreme Court's decision in *Garrity v. New Jersey*, 385 U.S. 493 (1967); your statement, as well as any information gained through your statement cannot be used against you in any criminal proceeding.

You are further ordered not to discuss this internal investigation with anyone other than your chain of command or attorney, including but not limited to witnesses or prospective witnesses. A violation of this order will be considered an act of insubordination, which could result in disciplinary action against you up to and including termination from employment with the City of Independence.

Your signature below declares that you have read and understood this warning prior to the initiation of any investigatory interrogation.

Date: 13 Mar 19

Officer's Signature: 

Officer's Printed Name: BRIAN DALTON

Witness: 

Internal Investigation Pre-Interview

Name Brian Dalton Shift 6a - 6p
Department Panor Police Division PANOR
Date 3-13-19 Time 8⁴⁰ am Location City Hall
Interviewer Evans Title _____

You are the subject of an administrative investigation. The known allegations are:

Distraction/Dissemination/Disclosure of Proprietary
Police Information/Documents.

Ask the employee if he/she wants a labor representative. Yes ☒ No ☐
If yes, representative's name SARA LIVA Phone
Department Bob Phillips Office Division 216 781 3600

If a request for a labor representative is made, do not interview until a representative is available.
Concluded at _____ Rescheduled for _____

You are being interviewed as part of an official administrative investigation by the myer's office
Thru Wm D. Evans Jr. This investigation is being handled by the
representatives from Poly-Tech Associates, Inc. You will be asked questions relating to the
performance of your official duties or fitness for office. If you refuse to answer questions completely and/or
accurately, you may be subject to disciplinary action up to and including dismissal. Statements provided
under threat of disciplinary action may not be used against you in any subsequent criminal proceedings.

Signature of employee: X Brian Dalton
Date 3-13-19

Signature of witness: X _____
Date _____

Interview breaks: Stop _____ Start _____ Stop _____ Stop _____
Interview completed at: 9⁵⁰ am
Tape recording made of the interview? Yes ☐ No ☐
If yes, tape recording made by: _____

Signature of interviewer: X _____

Employee to receive a copy of completed form.

Internal Investigation Pre-Interview

Name Sgt Citric Cross Shift _____
Department Idaho State PD Division _____
Date 3-13-19 Time 10⁰⁰ AM Location C117 Hmli
Interviewer _____ Title _____

You are the subject of an administrative investigation. The known allegations are:

Dissemination / Dissemination / Disclosure of Proprietary
Police Information / Documents

Ask the employee if he/she wants a labor representative. Yes ☒ No _____
If yes, representative's name Sam Liva Phone 216 781 3600
Department Bob Dineen's office Division _____

If a request for a labor representative is made, do not interview until a representative is available.
Concluded at _____ Rescheduled for _____

You are being interviewed as part of an official administrative investigation by the major office
TRU W. D. Evans II. This investigation is being handled by the
representatives from Poly-Tech Associates, Inc. You will be asked questions relating to the
performance of your official duties or fitness for office. If you refuse to answer questions completely and/or
accurately, you may be subject to disciplinary action up to and including dismissal. Statements provided
under threat of disciplinary action may not be used against you in any subsequent criminal proceedings.

Signature of employee: X [Signature]
Date 03/13/19

Signature of witness: X _____
Date _____

Interview breaks: Stop _____ Start _____ Stop _____ Stop _____
Interview completed at: 11⁰⁰ AM
Tape recording made of the interview? Yes _____ No _____
If yes, tape recording made by: _____

Signature of interviewer: X _____

Employee to receive a copy of completed form.

1 of 2

Civil Cross.

Sgt ; 20+ years.

Anglo HTS 1 1/2 yrs.

Rocky, smooth, ags

Seen item 0

I've seen all 1-3 ~~1-4~~ not item 4 (Phe)

6 item; 6 Show one 2913.001. Civil next is.

It is a breach 1-4 maybe 3

did into the up.

I can't think of a legit reason for
DIST of 1-4.

DIST is a reason for DIST

I've never seen #4 before

Sgt Ruiz may hit a his desk.

If I got a copy of #1 I did not give
mine out a show it.

I see similarity between 2 & 4
1st #

I have no access to ^{#3 #4} DALLAS
links up or CALLERS #5

I only have access to ~~#3 #4~~ #1 & #2

D/4 sent any of those exhibits to Fox 8

NO problem had access to #1-4

Who besides chief has access to ^{#1} 1-4

I don't know EVANS/PTA176

25/7

I know most of the Dept knew
Brown was better off.

the union dog @ the mayor people
that don't like the mayor.

I do not support the dissemination of
the documents!

Re: Motive Q to Brian.

There are plenty of people that don't
want the Chief there. He took FBI
from Ottawa.

I had - 500 for the book from
your size

- 250 micro cassette Early 2000s
- 150 FUBH LIGHT. " "

Chief all 30 of us would have been in
2000

Is there anyone who'd be upset they didn't
get Chief?

- ~~officer~~ ^{police} from here

- TMAZOW from here

- ~~John~~ Smith (Retired now)

@ 45 yrs old

EVANS/PTA177

GARRITY WARNING

You are required to respond to all questions asked of you in this administrative investigation. Further, you are required to assist investigators with any information they should request. If you fail or refuse to forthrightly answer any and all questions asked, you may be subject to disciplinary action up to and including termination from employment with the City of Independence.

However, in accordance with the United States Supreme Court's decision in *Garrity v. New Jersey*, 385 U.S. 493 (1967); your statement, as well as any information gained through your statement cannot be used against you in any criminal proceeding.

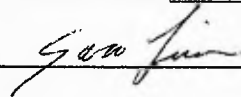
You are further ordered not to discuss this internal investigation with anyone other than your chain of command or attorney, including but not limited to witnesses or prospective witnesses. A violation of this order will be considered an act of insubordination, which could result in disciplinary action against you up to and including termination from employment with the City of Independence.

Your signature below declares that you have read and understood this warning prior to the initiation of any investigatory interrogation.

Date: 3-13-19

Officer's Signature: 

Officer's Printed Name: SGT. CHRISTOPHER CROSS #023

Witness: 

3-13-19.

10/2

Greg Tinnirello.

- 21 yrs w/ PD

- Sgt

Are you familiar w/ 1, 2, 3, 4?

only seen #1

I can recall #2 before maybe 1 did?

- I never saw #3

- I never saw #4

Are 1-4 internal confidential Police property
docs. ~~are~~ yes

discrepancy

I would write up agree in my counsel if
they distributed the contents of
document itself

- I did NOT distribute. NO

- I did NOT have anyone distribute.

Compare 14-17 to 15-17 of Public
Records request by Fox.

I see Daxtons write up it similar to
pub records request.

trust you have a duty to provide
narrative.

EVANS/PTA179

2572

I know it's not me.

PTBL & SGT did not know when #

Item #1 was put on a report on
Sgt Kutz & I gave it to

Chief per his report a
couple weeks ago

#3 only Doctor LT & Chief IRL and
recs to #3

#2 Accessible to anyone

(*) Above SGT is MAJ254 IRL
Major ASST, chief POLK!

— Whom did this is pretty & ITS R/S
st myorg of P.D. feels that way.

I'm willing to take risk I don't
do anything!

Internal Investigation Pre-Interview

Name Lorey Tinniglells Shift 2 - MIDNIGHT
 Department Police Inspector Division PAW
 Date 3/13/19 Time _____ Location CITY HALL
 Interviewer CRMS Title _____

You are the subject of an administrative investigation. The known allegations are:

DISTRIBUTION / DISSEMINATION / DISCLOSURE of
proprietary police information / documents

Ask the employee if he/she wants a labor representative. Yes ☒ No _____
 If yes, representative's name SARA LIVA Phone _____
 Department BOB ALLEN Division _____

If a request for a labor representative is made, do not interview until a representative is available.
 Concluded at _____ Rescheduled for _____

You are being interviewed as part of an official administrative investigation by the Mayor's Office
TNU W A P. Evans ID. This investigation is being handled by the
 representatives from Poly-Tech Associates, Inc. You will be asked questions relating to the
 performance of your official duties or fitness for office. If you refuse to answer questions completely and/or
 accurately, you may be subject to disciplinary action up to and including dismissal. Statements provided
 under threat of disciplinary action may not be used against you in any subsequent criminal proceedings.

Signature of employee: X SOT [Signature]
 Date 3/13/19

Signature of witness: X _____
 Date _____

To: 11:46 AM END

Interview breaks: Stop _____ Start _____ Stop _____ Stop _____
 Interview completed at: 11:46 AM
 Tape recording made of the interview? Yes _____ No _____
 If yes, tape recording made by: _____

Signature of interviewer: X _____

Employee to receive a copy of completed form.

GARRITY WARNING

You are required to respond to all questions asked of you in this administrative investigation. Further, you are required to assist investigators with any information they should request. If you fail or refuse to forthrightly answer any and all questions asked, you may be subject to disciplinary action up to and including termination from employment with the City of Independence.

However, in accordance with the United States Supreme Court's decision in *Garrity v. New Jersey*, 385 U.S. 493 (1967); your statement, as well as any information gained through your statement cannot be used against you in any criminal proceeding.

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Your signature below declares that you have read and understood this warning prior to the initiation of any investigatory interrogation.

Date: 3/13/19

Officer's Signature: 

Officer's Printed Name: Gregory Tanninella

Witness: 

GARRITY WARNING

You are required to respond to all questions asked of you in this administrative investigation. Further, you are required to assist investigators with any information they should request. If you fail or refuse to forthrightly answer any and all questions asked, you may be subject to disciplinary action up to and including termination from employment with the City of Independence.

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Your signature below declares that you have read and understood this warning prior to the initiation of any investigatory interrogation.

Date: 3/13/2019

Officer's Signature: Charles Wilson

Officer's Printed Name: Charles Wilson

Witness: Sara Jura

Internal Investigation Pre-Interview

Name KT CHARLES WILSON
Department Police

Shift 8-4 or 9-5
Division Det Bureau

Date 3-13-19 Time _____ Location Independence City
Interviewer _____ Title _____

You are the subject of an administrative investigation. The known allegations are:

DISSEMINATION / DISSEMINATION / DISCLOSURE of proprietary
police information / documents

Ask the employee if he/she wants a labor representative. Yes ☒ No ☐

If yes, representative's name SRNA LIVA Phone _____
Department BOB Pittman Division _____

If a request for a labor representative is made, do not interview until a representative is available.
Concluded at _____ Rescheduled for _____

You are being interviewed as part of an official administrative investigation by the Mayor's Office
THRU Wm J. Evans II. This investigation is being handled by the
representatives from Poly-Tech Associates, Inc. You will be asked questions relating to the
performance of your official duties or fitness for office. If you refuse to answer questions completely and/or
accurately, you may be subject to disciplinary action up to and including dismissal. Statements provided
under threat of disciplinary action may not be used against you in any subsequent criminal proceedings.

Signature of employee: X Charles Wilson
Date 3/13/2019

Signature of witness: X _____
Date _____

Interview breaks: Stop _____ Start _____ Stop _____ Stop _____

Interview completed at: _____

Tape recording made of the interview? Yes _____ No _____

If yes, tape recording made by: _____

Signature of interviewer: X _____

Employee to receive a copy of completed form.

LT Charles Wilson

3/13/19

31 years w/ independence

5 items 1-4

Are you familiar 1-4?

Never saw item # 2

I did see before #1, b/c of US
LT Warehouse Union Ref.

I also saw # 3 b/c drawer shows it to
1 also saw # 4 &
regimen M2202A.

me doing it
Dutton drawer
look for gun
Honey

The most corruption of sanitary document is
item.

Admits its propriety

I did not distribute anything under a process &
it should be held inside police
dept.

work at # 17 Longue to GP 1 of PRR.

① Access only by CHIEF, Deputy Chief
~~of~~ of HMAZ202A.
 LT Kroger would not have
 access to any of the 1-4.

IT I don't think IT has it. He.

Matt will piss at this question or --
 to make someone look bad?

Not option to visit int & look.

make CHIEF look bad. is myos
 in patrol.

my 30 MAZ204 funded his
 pro A & his SGTs.

Wanted
 VOT
 some

slipping
 no fire.

SGT's

Bar Boreway not in a position to see the pro dis.

~~Bar Boreway~~

CROSS.

Timmerella

~~KROGER~~

Chief would have likely been involved

3/20/19

2

save a copy of my PC-D 3-20-19

To: Bob Phillips

② I kept my signature

3

H.R.

4

CHIEF

Business is kept w/me

or in my 2/10

Photo of my Binder info.

my note up could have

been scanned in Bus Hub

Bob Phillips or
LT got PDF image thru

to Bus Hub

? is there a scan to File?

Internal Investigation Pre-Interview

Name Leonard MAZZOLA
Department Police

Shift 8 6 pm & noon 10 pm
Division _____

Date 3-13-19 Time 1⁴² Location CITY Hall
Interviewer ELMS Title _____

You are the subject of an administrative investigation. The known allegations are:

DISTRIBUTION / DISSEMINATION / DISCLOSURE / OF PROPRIETARY
POLICE INFORMATION / DOCUMENTS

Ask the employee if he/she wants a labor representative. Yes ☒ No ☐
If yes, representative's name SAR LUNA Phone _____
Department BOB PHILLIPS Office Division _____

If a request for a labor representative is made, do not interview until a representative is available.
Concluded at _____ Rescheduled for _____

You are being interviewed as part of an official administrative investigation by the Myolic Office
WM D. Evans. This investigation is being handled by the
representatives from Poly-Tech Associates, Inc. You will be asked questions relating to the
performance of your official duties or fitness for office. If you refuse to answer questions completely and/or
accurately, you may be subject to disciplinary action up to and including dismissal. Statements provided
under threat of disciplinary action may not be used against you in any subsequent criminal proceedings.

Signature of employee: X MAZZOLA
Date 3/13/2019

Signature of witness: X _____
Date _____

Interview breaks: Stop _____ Start _____ Stop _____ Stop _____
Interview completed at: 2:19 PM
Tape recording made of the interview? Yes _____ No _____
If yes, tape recording made by: _____

Signature of interviewer: X _____

Employee to receive a copy of completed form.

City of Independence, Ohio
"THE HEART OF CUYAHOGA COUNTY"
6800 BRECKSVILLE ROAD INDEPENDENCE, OHIO 44131

Police Department
(216) 524-1234
FAX (216) 328-0110

To: Ptl. Brian Dalton
From: Lt. Len Mazzola
CC: Chief Michael Kilbane
Date: 01/07/2019
Re: Performance Standard 10/01/18-12/31/18

Ptl. Dalton,

I have completed calculating the numbers for the 10/01/18-12/31/18 Performance Standard reporting period. During this period you wrote 20 citations. The Performance Standard outlined via email delivered to all Patrol, stated that each officer would be responsible to have a minimum of 10 citations per month, thus a total of 30 for each quarterly reporting period.

You have failed to comply with this directive issued. Per Chief Kilbane, this letter serves as a written reprimand to document the situation. Failure to meet acceptable Performance Standard numbers going forward will result in progressively more severe discipline. All other members of the Patrol division have met the Performance Standard for this reporting period.

Please sign below acknowledging receipt of this written reprimand.

Ptl. Brian Dalton

REFUSED No Just Cause!
I HAVE THREATENED AND AM SIGNING THIS UNDER DURESS!
Please let me know if there is anything I can do to help moving forward to avoid any issues.

B Dalton

Lt. Len Mazzola

Bill Evans

From: Michael Kilbane <kilbanem@independenceohio.org>
Sent: Friday, March 08, 2019 11:40 AM
To: Bill Evans
Subject: Dalton reprimand
Attachments: BD Reprimand.pdf

Bill,

Attached is the reprimand to Officer Dalton that was requested by the reporter. This reprimand was written by Lt. Mazzola, printed out and given directly to Patrolman Dalton. It was not disseminated electronically and the only people who possessed it were Lt. Mazzola, Patrolman Dalton and myself after it was presented to Dalton for his signature. I also included the ORC section below that addresses accessing a computer system beyond the scope of authority, it is an F5.

Please let me know if you need anything else.

Thanks,

Chief Mike Kilbane

2913.04 Unauthorized use of property - computer, cable, or telecommunication property.

(A) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.

(B) No person, in any manner and by any means, including, but not limited to, computer hacking, shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service or other person authorized to give consent.

(C) Except as permitted under section 5503.101 of the Revised Code, no person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the law enforcement automated database system created pursuant to section 5503.10 of the Revised Code without the consent of, or beyond the scope of the express or implied consent of, the chair of the law enforcement automated data system steering committee.

(D) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the Ohio law enforcement gateway established and operated pursuant to division (C)(1) of section 109.57 of the Revised Code without the consent of, or beyond the scope of the express or implied consent of, the superintendent of the bureau of criminal identification and investigation.

3/13/19

Learned MAZZOCCHI

w/ sent 25 yrs

no other DPT.

Rec'd Item (o)

Have not discussed dissemination of Fox news stuff
w/ Fox itself; HST discussed w/ WIT that in
majority w/ major & me ~~2/24/19~~ 2/28/19 AT 3⁰⁰

No one else since then of my type or kind

Did you sit on your Pre I

to you SGTs

at all o

w/ major it was private discussion w/ major; since
stuff relative to Dept operations. Has nothing to
do w/ Fox but it came up 3/4 of the
month until by me when I informed
PAMOT ~~document~~ 2/25/18 went
from Learning to Patrol & Dispatchers.

No Discussion ^{w/ major} Fox since mid to end of
January 19 in general conversation only.

Weds
Done

Mrs. Chief Lem PMS. CHINOKI major
Due to performance standard.

2

#1 recognize #1 yes

#2 "

#3 "

#4 "

#1 went to see 4 SGTs & Chief.

#2 went everywhere through out the section.

Notified my Pre D was ^{distributed} ~~on the~~ ~~in~~ ~~the~~ ~~day~~ was 8/29/18
Hearing was Tues 9/4/18.

#2 was posted in Back room & Door of D.

#1 went to all 4 SGTs individually EMIL
Browny did not get it. POSTED IN
SGTs office.

#3 I gave it directly to Dutton
& maybe Sgt Cross. IN person NOT
Electricity IT was a physical
copy. IT was on the city system.
I gave it by the CHIEF TO
MAYBE SHE IT WAS COUNT 3.4 2
SERVED IT TO DUTTON; I PUTED IT
& ALSO GAVE IT ~~to~~ to Chief & she to
Sgt Cross. IT was not sent EMIL I
don't THINK. ITS too genuine & was
BESS' BROTHER

3

#4 I got it by chance, I'd
gone to lunch. It was in envelope on my
keyboard at my desk. Envelope was
sealed. I felt betrayed by how I was
"noticed".

- I was written up on 8/6/18 for ticket numbers

- (27.6 increase from I did the memo)

#4 only I had it, Chuck Wilson
Chief. It's my guess I didn't have
any copies.

● I assume ~~just~~ Bob Phelps got a copy; assume
LT Chuck Wilson No one else.

NONE no good reason for discrimination
Pissed off at me for putting the order.
One. pissed off at me & the chief.
JB

Spent time

- Chief to me have had an Issues

- I said this had to be Ant possible.

- Chief NO, POSSIBLE

- H/R Letter NO, POSSIBLE

- LT Wilson NO

- Bob NO

- me NO I DID NOT.

I'm not willing to do pol
✓ CBA I am willing to answer any of
your Q's.

I have

POLYTECH ASSOCIATES, INC.
1185 S MAIN ST
AKRON, OH 44301-1322

Place:

Date:

1. Leonard Adams

voluntarily, UNDER OATH, UNDER CHIEF'S COERCION, without threats, duress, coercion, force,

promises of immunity or reward request, agree and stipulate to be interviewed and/or take a polygraph (truth verification) examination for the mutual benefit of myself, William D. Evans II, Kenneth L. Butler, POLY-TECH ASSOCIATES, INC. AND CITY OF AKRON POLICE MAYOR AND LAW DEPT

DIRECTOR AND OFFICERS PERSON

I fully realize that, I am ~~not~~ required to take this examination. I may first consult with an attorney or anyone I wish before either signing this form or being interviewed and/or taking the examination. Nevertheless, I consent to the use of electronic hearing and recording devices, and I ~~voluntarily request and~~ authorize William D. Evans, II/Kenneth L. Butler to now proceed with the actual interview/examination.

I do hereby authorize William D. Evans, II/Kenneth L. Butler, his directors, officers, employees and/or agents to disclose both orally and in writing the interview/examination results and opinions to directors, officers, employees and/or agents of POLY-TECH ASSOCIATES, INC., AND CITY OF AKRON POLICE MAYOR AND LAW DEPT

under
order
by the
Chief

I am fully aware that the opinion may be that I have not been truthful. Nevertheless, in consideration of and as inducement for William D. Evans, II/Kenneth L. Butler, to give me this interview/polygraph examination, I for myself and my successors, assigns, heirs, executors, administrators knowingly hereby totally release, absolve, remise, covenant, promise, agree to save harmless, waive, forever discharge, and hold free from all harm, liability, or damage whatsoever POLY-TECH ASSOCIATES INC., Kenneth L. Butler/William D. Evans, II, as president and in his individual capacity, the above named, and their respective directors, officers, employees, and agents individually, collectively, and personally from any and all suits, actions or causes of actions at law, claims, demands, or liabilities whatsoever or in law or in equity including but not limited to false arrest, false imprisonment, libel, slander, or invasion of all my rights and privacy which I, my successors, assigns, heirs, executors, or administrators ~~have now or may have~~ have resulting directly, indirectly, or remotely from being interviewed/examined, possible liabilities or damages, flowing from the operation of all electronic hearing and recording devices, the rendered ~~and~~ written opinions and statements, and/or all future actions taken by any and/or all of the above based upon my taking this interview/examination. Records are kept for limited periods due to the use of digital and analog equipment POLY-TECH ASSOCIATES, INC., or its officers cannot be held responsible for lost, or inability to retrieve, information in the event of loss due to negligence or otherwise. The parties further release Poly-Tech Associates, Inc. and its officers for such loss. As a further consideration and inducement to have this interview/examination, I claim that I am in good mental and physical condition and that I know of no mental or physical ailment which might be impaired by the interview/examination.

IMPORTANT NOTICE: This agreement, stipulation, and release form is a legally binding contract! If not completely understood, do not sign but seek competent advice, such as that rendered by an attorney. Poly-Tech Associates, Inc. and William D. Evans, II, as its President, and Kenneth L. Butler are separate entities, each are hereby released in individual and/or collective capacities. Mr. Evans/Mr. Butler will not provide legal advice or consultation regarding this matter. Mr. Evans/Mr. Butler will merely provide information relating only to polygraph technique and information relating to the case for which you are examined.

Sign here 3/10/19 Witness Signature of person to be examined Time

(other person(s) with any interest in examination results, after reading the above, in its entirety. I also agree to be bound by the terms of this release.)

EVANS/PTA195